

2016 KENTUCKY GENERAL ASSEMBLY

***EFFECTIVE DATE OF MOST NEW LEGISLATION IS
JULY 15, 2016***

**Unless noted as different in individual statutes*

***NOTE - CERTAIN BILLS ARE EMERGENCY LEGISLATION AND
EFFECTIVE IMMEDIATELY UPON THE SIGNATURE OF THE
GOVERNOR (SEE INDIVIDUAL STATUTES).***

***THIS DOCUMENT WILL BE UPDATED WHEN NEW STATUTE
NUMBERS ARE AVAILABLE***

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NOT SUMMARIZED – SPECIFIC TO KENTUCKY ABC – SEE STATUTE IF AGENCY DOES ALCOHOL BEVERAGE ENFORCEMENT

EMERGENCY

SENATE BILL 16

SAFETY OF MINORS

SIGNED INTO LAW AND EFFECTIVE AS OF APRIL 8, 2016

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) A person who enters a vehicle, as defined in KRS 503.010, for the purpose of removing a minor shall be immune from civil liability for any resulting damage to the vehicle if the person:

(a) Has a reasonable, good faith belief, based upon the circumstances known to the person at the time, that entry into the vehicle is necessary because the minor is in imminent danger of physical injury if not immediately removed from the vehicle;

(b) Has contacted local law enforcement, the local fire department, or a 911 emergency telephone service prior to entering the vehicle;

(c) Uses no more force to enter the vehicle and remove the minor than is reasonably necessary under the circumstances; and

(d) 1. Remains with the minor in a safe location, out of the elements but reasonably close to the vehicle, until law enforcement, firefighters, or other emergency responders arrive; or

2. Reasonably determines that emergency conditions require leaving the scene with the minor, and places written notice on the vehicle containing:

a. The person's contact information;

b. The reason entry into the vehicle was made;

c. The minor's location; and

d. Notice that authorities have been contacted.

(2) This section does not limit a person's immunity from civil liability or defenses established in another section of the Kentucky Revised Statutes or available at common law.

Section 2. Section 1 of this Act shall be known and may be cited as the "Look Before You Lock Act."

Section 3. The Office of Highway Safety within the Transportation Cabinet is strongly encouraged to create and implement an educational campaign regarding the safety threat heatstroke poses for children left in vehicles.

Section 4. Whereas children left in vehicles are at risk for injury, an emergency is

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declared to exist, and Section 1 of this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

SENATE BILL 40

JUVENILE PROCEEDINGS

SECTION 1. A NEW SECTION OF KRS CHAPTER 21A IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly respectfully requests that the Supreme Court of Kentucky institute a pilot project to study the feasibility and desirability of the opening or limited opening of court proceedings, except for proceedings related to sexual abuse, to the public which are related to:

(a) Dependency, neglect, and abuse proceedings under KRS Chapter 620; and

(b) Termination of parental rights proceedings under KRS Chapter 625.

(2) (a) The pilot project may be established in a minimum of three (3) diverse judicial districts or judicial circuits or a division or divisions thereof chosen by the Chief Justice.

(b) A pilot project authorized by this subsection shall not be established in a judicial district or judicial circuit or a division thereof when objected to by the applicable judge or county attorney.

(3) The pilot project shall:

(a) Require participating courts to be presumptively open;

(b) Last for four (4) years, unless extended or limited by the General Assembly; and

(c) Be monitored and evaluated by the Administrative Office of the Courts to determine:

1. Whether there are adverse effects resulting from the opening of certain proceedings or release of records;

2. Whether the pilot project demonstrates a benefit to the litigants;

3. Whether the pilot project demonstrates a benefit to the public;

4. Whether the pilot project supports a determination that such proceedings should be presumptively open;

5. Whether the pilot project supports a determination that such proceedings should be closed;

6. How open proceedings under the pilot project impact the child;

7. The parameters and limits of the program;

8. Suggestions for the operation and improvement of the program;

9. Rules changes which may be needed if the program is to be made permanent and expanded to all courts; and

10. Recommendations for statutory changes which may be needed if the program is to be made permanent and expanded to all courts.

(4) The Administrative Office of the Courts:

(a) Shall provide an annual report to the Legislative Research Commission, the Interim Joint Committee on Health and Welfare, and the Interim Joint Committee on Judiciary by September 1 of each year the program is in operation with statistics, findings, and recommendations; and

(b) May make periodic progress reports and statistical reports and provide

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suggestions to the Interim Joint Committee on Health and Welfare and to the Interim Joint Committee on Judiciary when determined necessary by the Chief Justice.

SECTION 2. A NEW SECTION OF KRS CHAPTER 21A IS CREATED TO READ AS FOLLOWS:

(1) A court chosen for the pilot project authorized by Section 1 of this Act shall, subject to written authorization by the Chief Justice:

(a) Open all or some of its proceedings to the public relating to cases identified in subsection (1) of Section 1 of this Act, subject to subsection (2) of this section;

(b) Set parameters for members of the public related to attendance at open proceedings and the information obtained during the proceedings; and

(c) Establish a procedure to require each member of the public attending a proceeding not to disclose the name or personal identifying information regarding any person who is a party to the proceeding, or person testifying at the proceeding.

(2) (a) A court chosen for the pilot project authorized by Section 1 of this Act may close the hearing or any part thereof upon motion of a party or upon its own motion if the court determines that closure is in the best interest of the child, the public, or for other good cause shown. The party seeking closure shall have the burden of proof.

(b) In considering whether closure of a hearing is in the best interest of the child or the public, the court shall give priority to the best interest of the child. The court shall also consider all relevant circumstances of the case, including but not limited to:

1. The nature of the allegations;

2. The age and maturity level of the child;

3. The benefit to the child, family, and public of maintaining confidentiality;

4. The benefit to the public of an open hearing;

5. The effect of confidentiality on the fact-finding process;

6. The wishes of the parties, victims, and the parents of any children involved in the case; and

7. Whether reasonable alternatives to closure are available.

(c) The court shall make written findings of fact and conclusions of law to support an order of closure, and any order of closure shall be no broader than is necessary to protect the interests asserted by the party seeking closure.

(3) Unless otherwise authorized by law, a court chosen for the pilot project authorized by Section 1 of this Act shall not:

(a) Release any record discussed at any open proceeding authorized by Section 1 of this Act, prior to, at, or after the proceeding which is made confidential pursuant to law;

(b) Permit audio, visual, or other recording of the proceedings by any person who is attending the proceeding, a party to the proceeding, or testifying at the proceeding;

(c) Permit any audio, visual, or other recording of the proceedings for official court purposes to be made a public record, copied, or released to the public; or

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(d) Permit any member of the public attending the proceeding, who is not a party to the proceeding, or who is not testifying at the proceeding, to disclose the name or personal identifying information of any person who is a party to a proceeding or testifying at a proceeding, outside of the courtroom.

(4) A person may take written notes during a hearing, as provided in Section 1 of this Act, and remove them from the courtroom following the hearing provided that no name or personal identifying information of any minor who is a party to the proceeding or testifying at the proceeding shall be taken from the courtroom. The provisions of this subsection are not intended to apply to, and shall not limit the use or publication of, any information obtained by means other than attendance at a proceeding authorized by this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO READ AS FOLLOWS:

(1) Any statute, administrative procedure, or court rule limiting or prohibiting public attendance at court proceedings conducted under KRS Chapter 620 or 625 shall not apply in a court which is participating in a pilot project authorized by Section 1 of this Act to the extent that the Chief Justice, and the presiding judge for a case specified in Section 1 of this Act, have authorized public attendance at the proceeding.

(2) The provisions of this section shall not permit attendance by the public at any court handling a case under KRS Chapter 620 or 625 which is not participating in the pilot project authorized by Section 1 of this Act, except as otherwise authorized by law.

(3) Unless authorized by law, the provisions of this section shall not permit attendance by the public in any court participating in the pilot project authorized by Section 1 of this Act which is not authorized by the Supreme Court to admit the public for any case or class of cases. (4) The provisions of this section shall not permit attendance by the public at any case before a court participating in the pilot project authorized by Section 1 of this Act when the judge presiding over the case determines that the case shall be closed.

SENATE BILL 54

DROP-OFF BOXES

Section 1. KRS 367.668 is amended to read as follows:

(1) Prior to orally requesting a contribution or when requesting a contribution in writing, a professional solicitor shall clearly disclose:

(a) The professional solicitor's name, as set out in the registration statement filed with the Attorney General pursuant to KRS 367.652, phone number or e-mail address, and the fact that the professional solicitor is being paid for providing services;

(b) The name of the charitable organization the professional solicitor represents and a description of how the contributions raised by the solicitation will be used for a charitable or civic purpose; and

(c) If the professional solicitor places or maintains a receptacle in public view for the purpose of collecting contributions in the form of clothing, household items, and other items, the receptacle shall contain a sign or label that:

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1. Includes the information contained in paragraphs (a) and (b) of this subsection; 2. Includes a statement that reads as follows: "Items donated here support, in part, a for-profit professional solicitor.";
 3. Is in lettering not less than two (2)~~[three (3)]~~ inches in height and one-half (1/2) inch in width; and
 4. Is placed immediately below the opening in the receptacle used to deposit donations.
- (2) Any individual who acts on behalf of the professional solicitor and identifies himself by name shall give his legal name.
 - (3) Any responses given by or on behalf of a professional solicitor to an oral or written request for information shall be truthful.
 - (4) The written confirmation, receipt, or reminder sent to a contributor or one who has pledged to contribute, following an oral solicitation, shall clearly include the information required by subsections (1) and (2) of this section.
 - (5) If the person being solicited requests information regarding the amount or percentage of funds going to the charitable organization or for a charitable or civic purpose, the professional solicitor shall inform the person solicited of the percentage of the gross revenue or the reasonable estimate of the gross revenue that the charitable organization will receive from the solicitation campaign. The Attorney General shall promulgate administrative regulations necessary to effectuate this disclosure.

SECTION 2. A NEW SECTION OF KRS 367.650 TO 367.670 IS CREATED TO READ AS FOLLOWS:

(1) If any person places or maintains a receptacle in public view or establishes or maintains some form of drop-off site for collecting donations of clothing or any other items that do not qualify as a charitable contribution as defined by Section 170(c) of the Internal Revenue Code, the receptacle or drop-off site shall contain a permanently attached sign or label that includes, in lettering not less than two (2) inches in height and one-half (1/2) inch in width:

(a) The name, address, telephone number, and e-mail address of the person who places or maintains the receptacle or establishes or maintains the dropoff site; and

(b) A statement that reads as follows: "Donations do not qualify as a charitable contribution for federal tax purposes."

(2) The sign or label shall be placed immediately below the opening in the receptacle or shall be prominently displayed at the drop-off site.

EMERGENCY

SENATE BILL 56 DRIVING UNDER THE INFLUENCE
SIGNED INTO LAW AND EFFECTIVE AS OF APRIL 9, 2016

Section 1. KRS 189A.010 is amended to read as follows:

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- (5) Any person who violates the provisions of paragraph (a), (b), (c), (d), or € of

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subsection (1) of this section shall:

(a) For the first offense within a ten (10)~~five (5)~~ year period, be fined not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500), or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days, or both. Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both. If any of the aggravating circumstances listed in subsection (11) of this section are present while the person was operating or in physical control of a motor vehicle, the mandatory minimum term of imprisonment shall be four (4) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release;

(b) For the second offense within a ten (10)~~five (5)~~ year period, be fined not less than three hundred fifty dollars (\$350) nor more than five hundred dollars (\$500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be fourteen (14) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release;

(c) For a third offense within a ten (10)~~five (5)~~ year period, be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be sixty (60) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release;

(d) For a fourth or subsequent offense within a ten (10)~~five (5)~~ year period, be guilty of a Class D felony. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be two hundred forty (240) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of release; and

(e) For purposes of this subsection, prior offenses shall include all convictions in this state, and any other state or jurisdiction, for operating or being in control of a motor vehicle while under the influence of alcohol or other substances that impair one's driving ability, or any combination of alcohol and such substances, or while having an unlawful alcohol concentration, or driving while intoxicated, but shall not include convictions for violating subsection (1)(f) of this section. A court shall receive as proof of a prior conviction a copy of that conviction, certified by the court ordering the conviction.

(6) Any person who violates the provisions of subsection (1)(f) of this section shall have his driving privilege or operator's license suspended by the court for a period of no less than thirty (30) days but no longer than six (6) months, and the person shall be fined no less than one hundred dollars (\$100) and no more than five hundred dollars (\$500), or sentenced to twenty (20) hours of community service in lieu of a fine. A person subject

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to the penalties of this subsection shall not be subject to the penalties established in subsection (5) of this section or any other penalty established pursuant to KRS Chapter 189A, except those established in KRS 189A.040(1).

(7) If the person is under the age of twenty-one (21) and there was an alcohol concentration of 0.08 or greater based on the definition of alcohol concentration in KRS 189A.005, the person shall be subject to the penalties established pursuant to subsection (5) of this section.

(8) For a second or third offense within a ten (10) ~~[five (5)]~~ year period, the minimum sentence of imprisonment or community labor shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a fourth or subsequent offense under this section, the minimum term of imprisonment shall be one hundred twenty (120) days, and this term shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a second or subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall be served consecutively.

(9) When sentencing persons under subsection (5)(a) of this section, at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release.

(10) In determining the ten (10) ~~[five (5)]~~ year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

* * * * *

Section 2. KRS 189A.070 is amended to read as follows:

(1) Unless the person is under eighteen (18) years of age, in addition to the penalties specified in KRS 189A.010, a person convicted of violation of KRS 189A.010(1)(a), (b), (c), (d), or (e) shall have his or her license to operate a motor vehicle or motorcycle revoked by the court as follows:

(a) For the first offense within a ten (10) ~~[five (5)]~~ year period, for a period of not less than thirty (30) days nor more than one hundred twenty (120) days;

(b) For the second offense within a ten (10) ~~[five (5)]~~ year period, for a period of not less than twelve (12) months nor more than eighteen (18) months;

(c) For a third offense within a ten (10) ~~[five (5)]~~ year period, for a period of not less than twenty-four (24) months nor more than thirty-six (36) months; and

(d) For a fourth or subsequent offense within a ten (10) ~~[five (5)]~~ year period, sixty (60) months.

(e) For purposes of this section, "offense" shall have the same meaning as described in KRS 189A.010(5)(e).

(2) In determining the ten (10) ~~[five (5)]~~ year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(3) In addition to the period of license revocation set forth in subsection (1) or (7) of this section, no person shall be eligible for reinstatement of his or her full privilege to operate a motor vehicle until he has completed the alcohol or substance abuse education or treatment program ordered pursuant to KRS 189A.040.

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(4) A person under the age of eighteen (18) who is convicted of violation of KRS 189A.010(1)(a), (b), (c), (d), or (e) shall have his license revoked by the court until he reaches the age of eighteen (18) or shall have his license revoked as provided in subsection (1) or (7) of this section, whichever penalty will result in the longer period of revocation or court-ordered driving conditions.

(5) Licenses revoked pursuant to this chapter shall forthwith be surrendered to the court upon conviction. The court shall transmit the conviction records, and other appropriate information to the Transportation Cabinet. A court shall not waive or stay this procedure.

(6) Should a person convicted under this chapter whose license is revoked fail to surrender it to the court upon conviction, the court shall issue an order directing the sheriff or any other peace officer to seize the license forthwith and deliver it to the court.

(7) After a minimum of twelve (12) months from the effective date of the revocation, a person whose license has been revoked pursuant to subsection (1)(b), (c), or (d) of this section may move the court to reduce the period of revocation on a day-for-day basis for each day the person held a valid ignition interlock license under KRS 189A.420, but in no case shall the reduction reduce the period of ignition interlock use to less than twelve (12) months. The court may, upon a written finding in the record for good cause shown, order such a period to be reduced to not less than twelve (12) months, if:

(a) The person maintained a valid ignition interlock license and did not operate a motor vehicle or motorcycle without a functioning ignition interlock device as provided for in KRS 189A.420;

(b) The person did not operate a motor vehicle or motorcycle in violation of any restrictions specified by the court; and

(c) The functioning ignition interlock device was installed on the motor vehicle or motorcycle for a period of time not less than twelve (12) months under subsection (1)(b), (c), or (d) of this section.

(8) Upon a finding of a violation of any of the conditions specified in subsection (7) of this section or of the order permitting any reduction in a minimum period of revocation that is issued pursuant thereto, the court shall dissolve such an order and the person shall receive no credit toward the minimum period of revocation required under subsection (1)(b), (c), or (d) of this section.

Section 3. KRS 189A.090 is amended to read as follows:

(1) No person shall operate or be in physical control of a motor vehicle while his or her license is revoked or suspended under this chapter, or upon the conclusion of a license revocation period pursuant to KRS 189A.340 unless the person has his or her valid ignition interlock license in the person's possession and the motor vehicle or motorcycle is equipped with a functioning ignition interlock device as required by KRS 189A.420.

(2) In addition to any other penalty imposed by the court, any person who violates subsection (1) of this section shall:

(a) For a first offense within a ten (10) ~~[five (5)]~~ year period, be guilty of a Class B misdemeanor and have his license revoked by the court for six (6) months, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), (d), or (e), in which event he shall be guilty of a Class A misdemeanor and have his license revoked by the court for a period of one (1) year;

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(b) For a second offense within a **ten (10)** ~~[five (5)]~~ year period, be guilty of a Class A misdemeanor and have his license revoked by the court for one (1) year, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), (d), or (e), in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of two (2) years;

(c) For a third or subsequent offense within a **ten (10)** ~~[five (5)]~~ year period, be guilty of a Class D felony and have his license revoked by the court for two (2) years, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), (d), or (e), in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of five (5) years; and

(d) At the sole discretion of the court, in the interest of public safety and upon a written finding in the record for good cause shown, the court may order that, following any period of incarceration required for the conviction of an offense under paragraph (a), (b), or (c) of this subsection, the eligible person is authorized to apply for and the cabinet shall issue to the person an ignition interlock license for the remainder of the original period of suspension or revocation and for the entire period of the new revocation if the person is and remains otherwise eligible for such license.

(3) The **ten (10)** ~~[five (5)]~~ year period under this section shall be measured in the same manner as in KRS 189A.070.

(4) Upon a finding of a violation of any of the requirements of an ignition interlock license, the court shall dissolve such an order and the person shall receive no credit toward the remaining period of revocation required under subsection (2)(b) or (c) of this section.

Section 4. KRS 189A.200 is amended to read as follows:

(1) The court shall at the arraignment or as soon as such relevant information becomes available suspend the motor vehicle operator's license and motorcycle operator's license and driving privileges of any person charged with a violation of KRS 189A.010(1) who:

(a) Has refused to take an alcohol concentration or substance test as reflected on the uniform citation form;

(b) Has been convicted of one (1) or more prior offenses as described in KRS 189A.010(5)(e) or has had his operator's license revoked or suspended on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the **ten (10)** ~~[five (5)]~~ year period immediately preceding his arrest; or (c) Was involved in an accident that resulted in death or serious physical injury as defined in KRS 500.080 to a person other than the defendant.

(2) Persons whose licenses have been suspended pursuant to this section may file a motion for judicial review of the suspension, and the court shall conduct the review in accordance with this chapter within thirty (30) days after the filing of the motion. The court shall, at the time of the suspension, advise the defendant of his rights to the review. If the person files a motion with the court waiving the right to judicial review of the suspension, the court, in its discretion, may authorize the person to apply to the cabinet for issuance of an ignition interlock license under KRS 189A.420 for the period

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of the suspension. If the person complies with KRS 189A.420 and is otherwise eligible, the cabinet shall issue the person an ignition interlock license for the remainder of the suspension period and apply the court-determined credit on a day-for-day basis for any subsequent ignition interlock requirement arising from the same incident.

(3) When the court orders the suspension of a license pursuant to this section, the defendant shall immediately surrender the license to the Circuit Court clerk, and the court shall retain the defendant in court or remand him into the custody of the sheriff until the license is produced and surrendered. If the defendant has lost his operator's license, other than due to a previous suspension or revocation, which is still in effect, the sheriff shall take him to the office of the circuit clerk so that a new license can be issued. If the license is currently under suspension or revocation, the provisions of this subsection shall not apply.

(4) The Circuit Court Clerk shall forthwith transmit to the Transportation Cabinet any license surrendered to him pursuant to this section.

(5) Licenses suspended under this section shall remain suspended until a judgment of conviction or acquittal is entered in the case or until the court enters an order terminating the suspension, but in no event for a period longer than the maximum license suspension period applicable to the person under KRS 189A.070 and 189A.107. Nothing in this subsection shall prevent the person from filing a motion for, the court from granting, or the cabinet from issuing an ignition interlock license under subsection (2) of this section.

(6) Any person whose operator's license has been suspended pursuant to this section shall be given credit for all pretrial suspension time against the period of revocation imposed. Licenses suspended under this section shall remain suspended until a judgment of conviction or acquittal is entered in the case or until the court enters an order terminating the suspension, but in no event for a period longer than the maximum license suspension period applicable to the person under KRS 189A.070 and 189A.107.

Section 5. KRS 189A.240 is amended to read as follows:

In any judicial review of a pretrial suspension imposed under KRS 189A.200(1)(a), if the court determines by a preponderance of the evidence that:

(1) The person was charged and arrested by a peace officer with a violation of KRS 189A.010(1)(a), (b), (c), (d), or (e);

(2) The peace officer had reasonable grounds to believe that the person was operating a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), (d), or (e);

(3) There is probable cause to believe that the person committed the violation of KRS 189A.010(1)(a), (b), (c), (d), or (e) as charged; and

(4) The person has been convicted of one (1) or more prior offenses as described in KRS 189A.010(5)(e) or has had his motor vehicle operator's license suspended or revoked on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the ten (10) ~~[five (5)]~~ year period immediately preceding his arrest, then the court shall continue to suspend the person's operator's license or privilege to operate a motor vehicle. The provisions of this section shall not be construed as limiting the person's ability to challenge any prior convictions or license suspensions or refusals.

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Section 6. KRS 189A.330 is amended to read as follows:

- (1) The clerk of the court in which hearings for violation of KRS 189A.010 are heard shall report to the Administrative Office of the Courts on or within five (5) working days of January 1, April 1, July 1, and October 1 of each year the cases involving violations of KRS 189A.010 which have not resulted in a final ruling by the court within one hundred eighty (180)[ninety (90)] days of the date upon which the person was charged with a violation of KRS 189A.010.
- (2) The Administrative Office of the Courts shall forward a copy of the lists of these cases to the Chief Justice and the Office of the Attorney General.
- (3) Upon a determination that there is sufficient cause, the Office of the Attorney General may appoint a special prosecutor or prosecutors to assist in the disposition of these cases within a reasonable time period.
- (4) The Chief Justice may take actions deemed necessary and reasonable to facilitate the resolution of these cases within a reasonable time period.

Section 7. KRS 189A.340 is amended to read as follows:

- (1) (a) Except as provided in KRS 189A.420(4), at the time that the court revokes a person's license under any provision of KRS 189A.070, for an offense in violation of KRS 189A.010(1)(a),(b),(e), or (f), the court shall also order that, at the conclusion of the license revocation, any license the person shall be issued shall restrict the person to operating only a motor vehicle or motorcycle equipped with a functioning ignition interlock device.
- (b) The ignition interlock periods shall be as follows:
 1. The first time in a ten (10) [~~five (5)~~] year period, a functioning ignition interlock device shall be installed for a period of six (6) months, if at the time of offense, any of the aggravating circumstances listed under KRS 189A.010(11) were present while the person was operating or in physical control of a motor vehicle.
 2. The second time in a ten (10) [~~five (5)~~] year period, a functioning ignition interlock device shall be installed for a period of twelve (12) months.
 3. The third or subsequent time in a ten (10) [~~five (5)~~] year period, a functioning ignition interlock device shall be installed for a period of thirty (30) months.
- (c) In determining the ten (10) [~~five (5)~~] year period under paragraph (b) of this subsection, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered, resulting in the license revocations described in KRS 189A.070.
- (2) Nothing in this section limits:
 - (a) The person's right to apply for an ignition interlock license during any period of suspension or revocation arising from the same incident;
 - (b) The cabinet's authority to issue an ignition interlock license during any period of suspension or revocation arising from the same incident if the person meets all application requirements and is otherwise eligible for such license; or
 - (c) The person from receiving credit on a day-for-day basis toward any ignition interlock requirement in paragraph (a) of this subsection for any period the person held a valid ignition interlock license during any period of suspension or revocation arising from the same incident. A person prohibited from operating any motor vehicle or motorcycle without a functioning ignition interlock device under paragraph (a) of subsection (1) of

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this section shall receive any court-determined credit on a day-for-day basis toward any such ignition interlock requirement for any period the person holds a valid ignition interlock license during any period of suspension or revocation arising from the same incident.

Section 8. KRS 189A.410 is amended to read as follows:

(1) At any time following the expiration of the minimum license suspension periods enumerated in:

(a) KRS 189A.010(6); or (b) KRS 189A.070 for a violation of: 1. KRS 189A.010(1)(c) or (d); or

2. KRS 189A.010(1)(a), (b), or (e) for a first offense within a **ten (10)** ~~[five (5)]~~ year period if, at the time of the offense, none of the aggravating circumstances enumerated under KRS 189A.010(11) were present while the person was operating or in control of a motor vehicle; the court may grant the person hardship driving privileges for the balance of the suspension period imposed by the court, upon written petition of the defendant, if the court finds reasonable cause to believe that revocation would hinder the person's ability to continue his employment; continue attending school or an educational institution; obtain necessary medical care; attend driver improvement, alcohol, or substance abuse education programs; or attend court-ordered counseling or other programs.

(2) Before granting hardship driving privileges, the court shall order the person to:

(a) Provide the court with proof of motor vehicle insurance;

(b) If necessary, provide the court with a written, sworn statement from his or her employer, on a form provided by the cabinet, detailing his or her job, hours of employment, and the necessity for the person to use the employer's motor vehicle either in his or her work at the direction of the employer during working hours, or in travel to and from work if the license is sought for employment purposes; and

(c) If the person is self-employed, to provide the information required in paragraph (b) of this subsection together with a sworn statement as to its truth;

(d) Provide the court with a written, sworn statement from the school or educational institution which he attends, of his or her class schedule, courses being undertaken, and the necessity for the person to use a motor vehicle in his travel to and from school or other educational institution if the license is sought for educational purposes. Licenses for educational purposes shall not include participation in sports, social, extracurricular, fraternal, or other non-educational activities;

(e) Provide the court with a written, sworn statement from a physician, or other medical professional licensed but not certified under the laws of Kentucky, attesting to the person's normal hours of treatment, and the necessity to use a motor vehicle to travel to and from the treatment if the license is sought for medical purposes;

(f) Provide the court with a written, sworn statement from the director of any alcohol or substance abuse education or treatment program as to the hours in which the person is expected to participate in the program, the nature of the program, and the necessity for the person to use a motor vehicle to travel to and from the program if the license is sought for alcohol or substance abuse education or treatment purposes; (g) Provide the court with a copy of any court order relating to treatment, participation in driver improvement programs, or other terms and conditions ordered by the court relating to

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the person which require him or her to use a motor vehicle in traveling to and from the court-ordered program. The judge shall include in the order the necessity for the use of the motor vehicle; and

(h) Provide to the court any information as may be required by administrative regulation of the Transportation Cabinet.

(3) The court shall not issue a hardship license to a person who has refused to take an alcohol concentration or substance test or tests offered by a law enforcement officer.

Section 9. This Act shall be known as the Brianna Taylor Act.

Section 10. Whereas all instances of driving under the influence pose an immediate danger to the health, safety, and welfare of the citizens of the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

EMERGENCY

SENATE BILL 60

VULNERABLE VICTIMS

SIGNED INTO LAW AND EFFECTIVE AS OF APRIL 9, 2016

SECTION 1. A NEW SECTION OF KRS CHAPTER 501 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "offense against a vulnerable victim" means any violation of:

(a) KRS 508.100¹:

(b) KRS 508.110²:

(c) KRS 508.120³:

(d) KRS 510.040⁴, 510.050⁵, 510.060⁶, 510.070⁷, 510.080⁸, 510.090⁹, 510.110¹⁰, 510.120¹¹, or 530.020¹², if the victim is under the age of fourteen (14), or if the victim is an individual with an intellectual disability, physically helpless, or mentally incapacitated, as those terms are defined in KRS 510.010¹³:

(e) KRS 529.100¹⁴ or 529.110¹⁵ if the victim is a minor;

¹ Criminal abuse in the first degree

² Criminal abuse in the second degree

³ Criminal abuse in the third degree

⁴ Rape in the first degree

⁵ Rape in the second degree

⁶ Rape in the third degree

⁷ Sodomy in the first degree

⁸ Sodomy in the second degree

⁹ Sodomy in the third degree

¹⁰ Sexual abuse in the first degree

¹¹ Sexual abuse in the second degree

¹² Incest

¹³ Sexual – Definitions for chapter

¹⁴ Human trafficking

¹⁵ Promoting human trafficking

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(f) KRS 530.064(1)(a)¹⁶;

(g) KRS 531.310¹⁷;

(h) KRS 531.320¹⁸; or

(i) Any felony in KRS Chapter 209¹⁹.

(2) A person may be charged with committing an offense against a vulnerable victim in a continuing course of conduct if the unlawful act was committed against the same person two (2) or more times over a specified period of time.

(3) If a person is charged as committing the crime in a continuing course of conduct, the indictment shall clearly charge that the crime was committed in a continuing course of conduct.

(4) To convict a person of an offense against a vulnerable victim in a continuing course of conduct, the jury shall unanimously agree that two (2) or more acts in violation of the same statute occurred during the specified period of time. The jury need not agree on which specific acts occurred.

(5) If a person is convicted of an offense against a vulnerable victim in a continuing course of conduct, that person may not also be convicted of charges based on the individual unlawful acts that were part of the continuing course of conduct.

(6) The penalty, probation and parole eligibility, and other consequences of an offense charged under this section shall be the same as for the offense when charged based on an individual act.

(7) The applicability of this section shall be governed by the age of the victim at the time of the offense.

Section 2. Whereas protecting the health and safety of Kentucky's most vulnerable citizens is one of the most important goals of our government and no just cause exists for delay, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law

EMERGENCY
SENATE BILL 63 SEXUAL ASSAULT
SIGNED INTO LAW AND EFFECTIVE AS OF APRIL 8, 2016

Section 1. All sexual assault examination kits collected pursuant to KRS 216B.400 prior to the effective date of this Act which have not been subjected to serological or deoxyribonucleic acid testing shall be submitted to the Department of Kentucky State Police forensic laboratory by January 1, 2017. The Department of Kentucky State Police forensic laboratory shall collaborate with every Kentucky law enforcement and prosecutorial agency responsible for the collection, storage,

¹⁶ Unlawful transaction with a minor (illegal sexual activity only)

¹⁷ Use of a minor in a sexual performance

¹⁸ Promoting a sexual performance by a minor

¹⁹ Protection of Adults

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and maintenance of sexual assault examination kits to develop a plan for the submission and testing of all such kits.

Section 2. KRS 15.440 is amended to read as follows:

(1) Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:

* * * * *

(g) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, state or public university police department, or sheriff's office, issued by the Justice and Public Safety Cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510; ~~and~~

(h) Possesses a written policy and procedures manual related to domestic violence for law enforcement agencies that meets the standards set forth by, and has been approved by, the Justice and Public Safety Cabinet. The policy shall comply with the provisions of KRS 403.715 to 403.785. The policy shall include purpose statements; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous reporting of adult abuse and domestic violence to the Cabinet for Families and Children, Department for Community Based Services; victim rights, assistance, and service responsibilities; and duties related to timely completion of records; **and**

(i) Possesses by January 1, 2017, a written policy and procedures manual related to sexual assault examinations that meets the standards set forth by, and has been approved by, the Justice and Public Safety Cabinet, and which includes:

1. A requirement that evidence collected as a result of an examination performed under Section 4 of this Act be taken into custody within five (5) days of notice from the collecting facility that the evidence is available for retrieval;

2. A requirement that evidence received from a collecting facility relating to an incident which occurred outside the jurisdiction of the department be transmitted to a department with jurisdiction within ten (10) days of its receipt by the department;

3. A requirement that all evidence retrieved from a collecting facility under this paragraph be transmitted to the Department of Kentucky State Police forensic laboratory within thirty (30) days of its receipt by the department;

4. A requirement that a suspect standard, if available, be transmitted to the Department of Kentucky State Police forensic laboratory with the evidence received from a collecting facility; and 5. A process for notifying the victim from whom the evidence was collected of the progress of the testing, whether the testing resulted in a match to other DNA samples, and if the evidence is to be destroyed. The policy may include provisions for delaying notice until a suspect is apprehended or the office of the Commonwealth's attorney consents to the notification, but shall not automatically require the disclosure of the identity of

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any person to whom the evidence matched.

(2) No local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund unless the local police department, state or public university police department, or sheriff's office actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the local police department, state or public university police department, or sheriff's office has substantially complied with subsection (1)(f) and (g) of this section.

(3) A sheriff's office shall not lose eligibility to share in the distribution of funds from the Law Enforcement Foundation Program fund if the sheriff does not participate in the Law Enforcement Foundation Program fund.

(4) Failure to meet a deadline established in a policy adopted pursuant to subsection (1)(i) of this section for the retrieval or submission of evidence shall not be a basis for a dismissal of a criminal action or a bar to the admissibility of the evidence in a criminal action.

Section 3. KRS 17.175 is amended to read as follows:

(1) A centralized database of DNA (deoxyribonucleic acid) identification records for convicted or adjudicated offenders, crime scene specimens, unidentified human remains, missing persons, and close biological relatives of missing persons shall be established in the Department of Kentucky State Police under the direction, control, and supervision of the Department of Kentucky State Police forensic laboratory. The established system shall be compatible with the procedures set forth in a national DNA identification index to ensure data exchange on a national level.

(2) The purpose of the centralized DNA database is to assist federal, state, and local criminal justice and law enforcement agencies within and outside the Commonwealth in the identification, detection, or exclusion of individuals who are subjects of the investigation or prosecution of sex-related crimes, violent crimes, or other crimes and the identification and location of missing and unidentified persons. (3) **(a)** The Department of Kentucky State Police forensic laboratory shall receive, analyze, and classify DNA samples received from the Department of Corrections, the Department of Juvenile Justice, and other sources, and shall file the DNA results in the centralized databases for law enforcement identification and statistical purposes. **The department shall analyze and classify all sexual assault evidence collection kits it receives. In cases where a suspect has been identified, the department may give priority to analysis and classification of sexual assault evidence collection kits where the reference standard for comparison is provided with the kit. Except as provided in subsection (3)(e) of this section, by July 1, 2018, the average completion rate for this analysis and classification shall not exceed ninety (90) days, and by July 1, 2020, the average completion rate for this analysis and classification shall not exceed sixty (60) days. (b) Failure to meet the completion time goals established in subsection (3)(a) of this section shall not be a basis for a dismissal of a criminal action or a bar to the admissibility of evidence. (c) The Department of Kentucky State Police shall, by August 1 of each year, report to the Legislative Research Commission the yearly average completion rate for the immediately**

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preceding five (5) fiscal years. (d) With approval by the secretary of the Justice and Public Safety Cabinet in situations in which an equipment casualty necessitates the expedited acquisition or repair of laboratory equipment required for the analysis of evidence, the acquisition or repair shall be exempt from the Finance and Administration Cabinet's competitive bidding process for both acquisition and repair purposes. Each time the authority granted by this paragraph is used, the equipment acquisition or repair shall be fully documented within thirty (30) days by the agency head in a written or electronic letter to the secretary of the Finance and Administration Cabinet, attached to an ordering or payment document in the state's procurement system, which shall include: 1. An explanation of the equipment acquired or repaired; 2. The name of the vendor selected; 3. The amount of procurement; 4. Other price quotations obtained; and 5. The basis for selection of the vendor. (e) To the extent appropriated funds are insufficient to meet the average completion time goals established in subsection (3)(a) of this section, the Department of Kentucky State Police forensic laboratory shall no longer be required to meet the average completion time goals.

* * * * *

Section 4. KRS 216B.400 is amended to read as follows:

(1) Where a person has been determined to be in need of emergency care by any person with admitting authority, no such person shall be denied admission by reason only of his or her inability to pay for services to be rendered by the hospital. (2) Every hospital of this state which offers emergency services shall provide that a physician, a sexual assault nurse examiner, who shall be a registered nurse licensed in the Commonwealth and credentialed by the Kentucky Board of Nursing as provided under KRS 314.142, or another qualified medical professional, as defined by administrative regulation promulgated by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707, is available on call twenty-four (24) hours each day for the examinations of persons seeking treatment as victims of sexual offenses as defined by KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120, 510.130, ~~510.040 to~~ 510.140, 530.020, 530.064(1)(a), and 531.310.

(3) An examination provided in accordance with this section of a victim of a sexual offense may be performed in a sexual assault examination facility as defined in KRS 216B.015. An examination under this section shall apply only to an examination of a victim.

(4) The physician, sexual assault nurse examiner, or other qualified medical professional, acting under a statewide medical forensic protocol which shall be developed by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707, and promulgated by the secretary of justice and public safety pursuant to KRS Chapter 13A shall, upon the request of any peace officer or prosecuting attorney, and with the consent of the victim, or upon the request of the victim, examine such person for the purposes of providing basic medical care relating to the incident and gathering samples that may be used as physical evidence. This examination shall include but not be limited

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to:

- (a) Basic treatment and sample gathering services; and
- (b) Laboratory tests, as appropriate.
- (5) Each victim shall be informed of available services for treatment of sexually transmitted infections, pregnancy, and other medical and psychiatric problems. Pregnancy counseling shall not include abortion counseling or referral information.
- (6) Each victim shall be informed of available crisis intervention or other mental health services provided by regional rape crisis centers providing services to victims of sexual assault.
- (7) Notwithstanding any other provision of law, a minor may consent to examination under this section. This consent is not subject to disaffirmance because of minority, and consent of the parents or guardians of the minor is not required for the examination.
- (8) (a) The examinations provided in accordance with this section shall be paid for by the Crime Victims' Compensation Board at a rate to be determined by the administrative regulation promulgated by the board after consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707.
- (b) Upon receipt of a completed claim form supplied by the board and an itemized billing for a forensic sexual assault examination or related services that are within the scope of practice of the respective provider and were performed no more than twelve (12) months prior to submission of the form, the board shall reimburse the hospital or sexual assault examination facility, pharmacist, health department, physician, sexual assault nurse examiner, or other qualified medical professional as provided in administrative regulations promulgated by the board pursuant to KRS Chapter 13A. Reimbursement shall be made to an out-of-state nurse who is credentialed in the other state to provide sexual assault examinations, an out-of-state hospital, or an out-of-state physician if the sexual assault occurred in Kentucky.
- (c) Independent investigation by the Crime Victims' Compensation Board shall not be required for payment of claims under this section; however, the board may require additional documentation or proof that the forensic medical examination was performed.
- (9) No charge shall be made to the victim for sexual assault examinations by the hospital, the sexual assault examination facility, the physician, the pharmacist, the health department, the sexual assault nurse examiner, other qualified medical professional, the victim's insurance carrier, or the Commonwealth.
- (10) (a) Each victim shall have the right to determine whether a report or other notification shall be made to law enforcement, except where reporting of abuse and neglect of a child, spouse, and other vulnerable adult is required, as set forth in KRS 209.030, 209A.030, and 620.030. No victim shall be denied an examination because the victim chooses not to file a police report, cooperate with law enforcement, or otherwise participate in the criminal justice system.
- (b) **If the victim chooses to report to law enforcement, the hospital shall notify law enforcement within twenty-four (24) hours.**
- (c)** 1. All samples collected during an exam where the victim has chosen not to immediately report to law enforcement shall be stored, released, and destroyed, if appropriate, in accordance with an administrative regulation promulgated by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707.

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2. Facilities collecting samples pursuant to this section may provide the required secure storage, sample destruction, and related activities, or may enter into agreements with other agencies qualified to do so, pursuant to administrative regulation.

3. All samples collected pursuant to this section shall be stored for at least one (1) year ~~[ninety (90) days]~~ from the date of collection in accordance with the administrative regulation promulgated pursuant to this subsection. 4. Notwithstanding KRS 524.140, samples collected during exams where the victim chose not to report immediately or file a report within one (1) year ~~[ninety (90) days]~~ after collection may be destroyed as set forth in accordance with the administrative regulation promulgated pursuant to this subsection. **The victim shall be informed of this process at the time of the examination.** No hospital, sexual assault examination facility, or designated storage facility shall be liable for destruction of samples after the required storage period has expired.

Section 5. KRS 403.707 is amended to read as follows:

(1) The Council on Domestic Violence and Sexual Assault shall create a Sexual Assault Response Team Advisory Committee.

(2) The Sexual Assault Response Team Advisory Committee shall be co-chaired by the executive director of the Kentucky Association of Sexual Assault Programs and the commissioner of the Department of Kentucky State Police or the commissioner's designee.

(3) The membership of the Sexual Assault Response Team Advisory Committee shall consist of the following:

(a) The executive director of the Kentucky Board of Nursing or the executive director's designee;

(b) The executive director of the Kentucky Nurses Association or the executive director's designee;

(c) The executive director of the Kentucky Hospital Association or the executive director's designee;

(d) **The executive director of the Kentucky Association of Children's Advocacy Centers;**

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(4) Members appointed under subsection (3) **(j) to (l)** ~~[(h) to (k)]~~ of this section shall serve at the pleasure of the appointing authority and shall not serve longer than four (4) years without reappointment.

(5) The Sexual Assault Response Team Advisory Committee shall:

(a) Serve in an advisory capacity to the Kentucky Board of Nursing in accomplishing the duties set forth under KRS 314.142;

(b) Serve in an advisory capacity to the Justice and Public Safety Cabinet in the development of the statewide sexual assault protocol required under KRS 216B.400(4);

(c) Develop a model protocol for the operation of sexual assault response teams which shall include the roles of sexual assault nurse examiners, physicians, law enforcement, prosecutors, and victim advocates;

(d) **Provide assistance to each regional rape crisis center, as designated by the**

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Cabinet for Health and Family Services, in establishing a regional sexual assault response team;

(e) Develop model policies for law enforcement agencies related to handling sexual assault examination kits and investigating sexual assaults with a victim-centered, evidence-based approach;

(f) By January 1, 2018, report to the General Assembly on the results of the analysis of previously untested sexual assault examination kits submitted to the Department of Kentucky State Police forensic laboratory pursuant to Section 1 of this Act, including whether analysis of those kits led to the identification and prosecution of suspects and the cost to society of the offenses committed by the suspects identified;

(g) By July 1, 2018, and by each July 1 thereafter, report to the General Assembly and to the secretary of the Justice and Public Safety Cabinet on the number of sexual assaults reported, the number of sexual assault examination kits submitted to the Department of Kentucky State Police forensic laboratory, the number of kits tested, and the number of charges filed and convictions obtained in sexual assault cases in the previous calendar year;

(h) Provide information and recommendations concerning the activities of the agency or organization represented by each individual committee member as related to sexual assault issues and programs within the purview of the agency or organization; and

(i)(e)) Recommend to the Council on Domestic Violence and Sexual Assault any changes in statute, administrative regulation, training, policy, and budget to promote a multidisciplinary response to sexual assault.

SECTION 6. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Kentucky State Police shall request from other law enforcement agencies, pursuant to KRS 17.150, and shall collect statistical data regarding the reporting and investigation of any person charged with committing, attempting to commit, or complicity to a sexual offense as defined by KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120, 510.130, 510.140, 530.020, 530.064(1)(a), and 531.310, and on the number of sexual assault evidence kits, as defined in Section 4 of this Act, which are submitted to law enforcement agencies, the number of such kits submitted to the Department of Kentucky State Police forensic laboratory, and the number of kits tested.

(2) The information collected pursuant to this section for the previous calendar year shall be provided by May 1, 2018, and by each May 1 thereafter to the Sexual Assault Response Team Advisory Committee as defined in Section 5 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

(1) The Administrative Office of the Courts shall collect statistical data regarding the prosecution, dismissal, conviction, or acquittal of any person charged with committing, attempting to commit, or complicity to a sexual offense as defined by KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120, 510.130, 510.140, 530.020, 530.064(1)(a), and 531.310.

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(2) The information collected pursuant to this section for the previous calendar year shall be provided by May 1 of 2018 and by each May 1 thereafter to the Sexual Assault Response Team Advisory Committee as defined in Section 5 of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the Cabinet for Health and Family Services shall designate as a SANE-ready hospital any acute care hospital which has certified, and recertifies annually, that a sexual assault nurse examiner as defined in KRS 314.011 is available on call twenty-four (24) hours each day for the examination of persons seeking treatment as victims of sexual offenses as defined by KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120, 510.130, 510.140, 530.020, 530.064(1)(a), and 531.310.

(2) The secretary shall suspend or revoke an acute care hospital's designation as SANE-ready hospital if the hospital fails to recertify annually, or if it notifies the secretary that it no longer meets the requirements of this section.

(3) (a) The cabinet shall maintain a list of SANE-ready hospitals and post the list on its Web site. The cabinet shall provide the list and periodic updates to the Kentucky Board of Emergency Medical Services.

(b) The Kentucky Board of Emergency Medical Services shall share the list with each local emergency medical services provider at least annually, and as new centers and hospitals are designated and certified.

Section 9. KRS 15.334 is amended to read as follows:

(1) The Kentucky Law Enforcement Council shall approve mandatory training subjects to be taught to all students attending a law enforcement basic training course that include but are not limited to:

(a) Abuse, neglect, and exploitation of the elderly and other crimes against the elderly, including the use of multidisciplinary teams in the investigation and prosecution of crimes against the elderly;

(b) The dynamics of domestic violence, pediatric abusive head trauma, as in KRS 620.020, child physical and sexual abuse, and rape; child development; the effects of abuse and crime on adult and child victims, including the impact of abuse and violence on child development; legal remedies for protection; lethality and risk issues; profiles of offenders and offender treatment; model protocols for addressing domestic violence, rape, pediatric abusive head trauma, as defined in KRS 620.020, and child abuse; available community resources and victim services; and reporting requirements. This training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with expertise in domestic violence, child abuse, and rape. Training in recognizing pediatric abusive head trauma may be designed in collaboration with organizations and agencies that specialize in the prevention and recognition of pediatric abusive head trauma approved by the secretary of the Cabinet for Health and Family Services;

(c) Human immunodeficiency virus infection and acquired immunodeficiency virus syndrome;

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(d) Identification and investigation of, responding to, and reporting bias-related crime, victimization, or intimidation that is a result of or reasonably related to race, color, religion, sex, or national origin;[and] (e) The characteristics and dynamics of human trafficking, state and federal laws relating to human trafficking, the investigation of cases involving human trafficking, including but not limited to screening for human trafficking, and resources for assistance to the victims of human trafficking; and

(f) Beginning January 1, 2017, the council shall require that a law enforcement basic training course include at least eight (8) hours of training relevant to sexual assault.

(2) (a) The council shall develop and approve mandatory professional development training courses to be presented to all certified peace officers. A mandatory professional development training course shall be first taken by a certified peace officer in the training year following its approval by the council and biennially thereafter. A certified peace officer shall be required to take these courses no more than two (2) times in eight (8) years.

(b) Beginning January 1, 2011, the council shall require that one and one-half (1.5) hours of professional development covering the recognition and prevention of pediatric abusive head trauma be included in the curriculum of all mandatory professional development training courses such that all officers shall receive this training at least once by December 31, 2013. The one and one-half (1.5) hours required under this section shall be included in the current number of required continuing education hours.

(c) Beginning January 1, 2017, the council shall establish a forty (40) hour sexual assault investigation training course. By January 1, 2019, agencies shall have one (1) or more officers trained in this curriculum, as follows:

1. Agencies with five (5) or fewer officers shall have at least one (1) officer trained in sexual assault investigation;

2. Agencies with more than five (5) officers but fewer than thirty (30) officers shall have at least two (2) officers trained in sexual assault investigation; and

3. Agencies with thirty (30) or more officers shall have at least four (4) officers trained in sexual assault investigation.

(3) The Justice and Public Safety Cabinet shall provide training on the subjects of domestic violence and abuse and may do so utilizing currently available technology. All certified peace officers shall be required to complete this training at least once every two (2) years. (4) The council shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish mandatory basic training and professional development training courses.

(5) The council shall make an annual report by December 31 each year to the Legislative Research Commission that details the subjects and content of mandatory professional development training courses established during the past year and the subjects under consideration for future mandatory training.

Section 10. KRS 524.140 is amended to read as follows:

(1) As used in this section:

(a) "Defendant" means a person charged with a:

1. Capital offense, Class A felony, Class B felony, or Class C felony; or
2. Class D felony under KRS Chapter 510; and

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(b) "Following trial" means after:

1. The first appeal authorized by the Constitution of Kentucky in a criminal case has been decided; or 2. The time for the first appeal authorized by the Constitution of Kentucky in a criminal case has lapsed without an appeal having been filed.

(2) No item of evidence gathered by law enforcement, prosecutorial, or defense authorities that may be subject to deoxyribonucleic acid (DNA) evidence testing and analysis in order to confirm the guilt or innocence of a criminal defendant shall be disposed of prior to trial of a criminal defendant unless:

(a) **The evidence has been in custody not less than fifty (50) years; or**

(b) The evidence has been in custody not less than ten (10) years; and

1. The prosecution has determined that the defendant will not be tried for the criminal offense; and

2. {(b)} The prosecution has made a motion, before the court in which the case would have been tried, to destroy the evidence[; and (c) The court has, following an adversarial proceeding in which the prosecution and the defendant were heard, authorized the destruction of the evidence by court order].

* * * * *

Section 11. Sections 1 to 10 of this Act shall be known as the Sexual Assault Forensic Evidence (SAFE) Act of 2016.

Section 12. Whereas delay in processing sexual assault evidence kits undermines public safety and confidence in the criminal justice system and no just cause exists for delay, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

SENATE BILL 84

TRAFFIC – STOPPED VEHICLES

Section 1. KRS 189.450 is amended to read as follows:

(1) No person shall stop a vehicle, leave it standing, or cause it to stop or to be left standing upon any portion of the roadway; provided, however, that this section shall not be construed to prevent parking in front of a private residence off the roadway or street in a city or suburban area where such parking is otherwise permitted, as long as the vehicle so parked does not impede the flow of traffic. This subsection shall not apply to:

(a) A vehicle that has been disabled on the right-of-way of such a highway in such a manner and to such extent that it is impossible to avoid the occupation of the shoulder of a state-maintained highway or impracticable to remove it from the shoulder of the highway until repairs have been made or sufficient help obtained for its removal. In no event shall a disabled vehicle remain on the shoulder of a state-maintained highway for twenty-four (24) hours or more;

(b) Motor vehicles when required to stop in obedience to the provisions of any section of the Kentucky Revised Statutes or any traffic ordinance, regulation, or sign or the command of any peace officer;

(c) Vehicles operating as common carriers of passengers for hire and school buses taking passengers on such vehicle or discharging passengers therefrom; provided, that

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no such vehicle shall stop for such purposes at a place on the highway which does not afford reasonable visibility to approaching motor vehicles from both directions; ~~for~~

(d) Vehicles which are stopped for a period of not more than fifteen (15) minutes at a time for the purpose of collecting and transporting solid waste as defined in KRS 224.1-010(31)(a), and which are operated by a:

1. Collection service registered in accordance with KRS 224.43-315; or

2. Person or organization actively participating in the Adopt-a-Highway Program;
or

(e) Any vehicle required to stop by reason of an obstruction to its progress.

* * * * *

EMERGENCY
SENATE BILL 203 DEATH BENEFITS
SIGNED INTO LAW AND EFFECTIVE AS OF APRIL 13, 2016

Section 1. KRS 16.601 is amended to read as follows:

(1) If the death of a member in service occurs on or after August 1, 1992, as a direct result of an "act in line of duty" and the member has on file in the retirement office at the time of his or her death a written designation of only one (1) beneficiary, who is his or her spouse, the beneficiary may elect to receive a lump-sum payment of ten thousand dollars (\$10,000) and a monthly payment equal to twenty-five percent (25%) of the member's monthly final rate of pay beginning in the month following the member's death and continuing each month until death.

(2) If the death of a member in service occurs on or after July 1, 1968, as a direct result of an "act in line of duty" and the member has on file in the retirement office at the time of his or her death a written designation of only one (1) beneficiary other than his or her spouse, who is a dependent receiving at least one-half (1/2) of his or her support from the deceased member, the beneficiary may elect to receive a lump-sum payment of ten thousand dollars (\$10,000).

(3) In the period of time following a member's death during which dependent children survive, monthly payments shall be made for each dependent child who is alive, equal to ten percent (10%) of the deceased member's monthly final rate of pay; however, total maximum dependent children's benefits shall not be greater than forty percent (40%) of the deceased member's monthly final rate of pay at the time any particular payment is due. The payments shall commence in the month following the date of death of the member and shall be payable to the beneficiaries, or to a legally appointed guardian or as directed by the system. Benefits shall be payable under this subsection notwithstanding an election by a beneficiary to withdraw the deceased member's accumulated account balance as provided in KRS 61.625 or benefits under any other provisions of KRS 16.510 to 16.652.

(4) A beneficiary eligible for benefits under subsection (1) or (2) of this section who is also eligible for benefits under any other provisions of KRS 16.510 to 16.652 may elect benefits under this section or any other section of KRS 16.510 to 16.652 but cannot elect to receive both.

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(5) (a) A beneficiary applying for benefits under subsection (1) or (2) of this section who is also eligible for benefits under KRS 16.578 may elect to receive benefits under KRS 16.578(2)(a) or (b) while the application for benefits under subsection (1) or (2) of this section is pending.

(b) If a final determination results in a finding of eligibility for benefits under subsection (1) or (2) of this section, the system shall recalculate the benefits due the beneficiary in accordance with this subsection.

(c) If the beneficiary has been paid less than the amount of benefits to which the beneficiary was entitled to receive under this section, the system shall pay the additional funds due to the beneficiary.

(d) If the beneficiary has been paid more than the amount of benefits to which the beneficiary was entitled to receive under this section, the system shall deduct the amount overpaid to the beneficiary from the ten thousand dollars (\$10,000) lump-sum payment and from the monthly retirement allowance payments until the amount owed to the systems has been recovered.

Section 2. KRS 61.621 is amended to read as follows:

(1) Notwithstanding any provision of any statutes to the contrary, effective June 1, 2000, any employee participating in one (1) of the state-administered retirement systems who is not in a hazardous duty position, as defined in KRS 61.592, shall be eligible for minimum benefits equal to the benefits payable under this section or KRS 61.702 if the employee dies or becomes totally and permanently disabled to engage in any occupation for remuneration or profit as a result of a duty-related injury.

(2)(a) For purposes of this section, "duty-related injury" means:

1. a. A single traumatic event that occurs while the employee is performing the duties of his position; or

b. A single act of violence committed against the employee that is found to be related to his job duties, whether or not it occurs at his job site; and

2. The event or act of violence produces a harmful change in the human organism evidenced by objective medical findings.

(b) Duty-related injury does not include the effects of the natural aging process, a communicable disease unless the risk of contracting the disease is increased by nature of the employment, or a psychological, psychiatric, or stress-related change in the human organism unless it is the direct result of a physical injury.

(3)(a) If the employee dies as a result of a duty-related injury and is survived by a spouse, the surviving spouse shall be the beneficiary, and this shall supersede the designation of all previous beneficiaries of the deceased employee's retirement account.

(b) The surviving spouse may elect to receive the benefits payable under KRS 61.640 or other applicable death benefit statutes, or may elect to receive a lump-sum payment of ten thousand dollars (\$10,000) and a monthly payment equal to twenty-five percent (25%) of the member's monthly final rate of pay beginning in the month following the member's death and continuing each month until death.

(4) If the employee is determined to be disabled as provided in KRS 61.600, or other applicable disability statutes in any other state-administered retirement system, as the result of a duty-related injury, the employee may elect to receive benefits determined under the provisions of KRS 61.605, or other applicable disability statutes in any other

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state-administered retirement system, except that the monthly retirement allowance shall not be less than twenty-five percent (25%) of the employee's monthly final rate of pay. For purposes of determining disability, the service requirement in KRS 61.600(1)(a), or other applicable statutes in any other state-administered retirement system, shall be waived.

(5) In the period of time following a member's death or disability during which dependent children survive, a monthly payment shall be made for each dependent child who is alive which shall be equal to ten percent (10%) of the deceased or disabled member's monthly final rate of pay; however, total maximum dependent children's benefits shall not exceed forty percent (40%) of the deceased or disabled member's monthly final rate of pay at the time any particular payment is due. The payment shall commence in the month following the date of death or disability of the member and shall be payable to the beneficiaries, or to a legally appointed guardian, or as directed by the system. Benefits for death as a result of a duty-related injury shall be payable under this subsection notwithstanding an election by a beneficiary to withdraw the deceased member's accumulated account balance as provided in KRS 61.625 or benefits under any other provisions of KRS 61.515 to 61.705 or other applicable death benefit statutes in any other state-administered retirement system.

(6)(a) A spouse applying for benefits under this section who is also eligible for benefits under KRS 61.640 may elect to receive benefits under KRS 61.640(2)(a) or (b) while the application for benefits under this section is pending.

(b) If a final determination results in a finding of eligibility for benefits under this section, the system shall recalculate the benefits due the spouse in accordance with this subsection.

(c) If the spouse has been paid less than the amount of benefits to which the spouse was entitled to receive under this section, the system shall pay the additional funds due to the spouse.

(d) If the spouse has been paid more than the benefit the spouse was eligible to receive under this section, then the system shall deduct the amount owed by the spouse from the ten thousand dollars (\$10,000) lump sum payment and from the monthly retirement allowance payments until the amount owed to the systems has been recovered.

(7)(6)} This section shall be known as "The Fred Capps Memorial Act."

Section 3. This Act shall have retroactive effect to any matters pending before the Kentucky Retirement Systems or appeals of any of those matters pending on the effective date of this Act.

Section 4. Whereas ensuring that benefits for public employees suffering death in the line of duty are promptly distributed is important to the public employees serving in the line of duty, to their families, and to the Commonwealth of Kentucky, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

SENATE BILL 206

REMPLOYMENT OF RETIRED OFFICERS

DRAFT
EFFECTIVE APRIL 28, 2016

SECTION 1. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "City" means any incorporated city, consolidated local government, unified local government, urban-county government, or charter county government, operating under the law of this Commonwealth, and the offices and agencies thereof; and

(b) "Police officer" has the same meaning as "police officer" in KRS 15.420 and as "officer" in KRS 16.010.

(2) Subject to the limitations of subsection (7) of this section, a city may employ individuals as police officers under this section who have retired from the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System.

(3) To be eligible for employment under this section, an individual shall have:

(a) Participated in the Law Enforcement Foundation Program fund under KRS 15.410 to 15.510 or retired as a commissioned officer pursuant to KRS Chapter 16;

(b) Retired with at least twenty (20) years of service credit;

(c) Been separated from service for the period required by Section 2 of this Act so that the member's retirement is not voided;

(d) Retired with no administrative charges pending; and

(e) Retired with no preexisting agreement between the individual and the city prior to the individual's retirement for the individual to return to work for the city.

(4) Individuals employed under this section shall:

(a) Serve for a term not to exceed one (1) year. The one (1) year employment term may be renewed annually at the discretion of the employing city;

(b) Receive compensation according to the standard procedures applicable to the employing city; and

(c) Be employed based upon need as determined by the employing city.

(5) Notwithstanding any provisions of KRS 16.505 to 16.652, 18A.225 to 18A.2287, 61.510 to 61.705, or 78.510 to 78.852 to the contrary:

(a) Individuals employed under this section shall continue to receive all retirement and health insurance benefits to which they were entitled upon retiring in the applicable system administered by Kentucky Retirement Systems;

(b) Individuals employed under this section shall not be eligible to receive health insurance coverage through the employing city;

(c) The city shall not pay any employer contributions or retiree health expense reimbursements to the Kentucky Retirement Systems required by subsection(17), of Section 2 of this Act for individuals employed under this section; and

(d) The city shall not pay any insurance contributions to the state health insurance plan, as provided by KRS 18A.225 to 18A.2287, for individuals employed under this section.

(6) Individuals employed under this section shall be subject to any merit system, civil service, or other legislative due process provisions applicable to the employing city. A decision not to renew a one (1) year appointment term under this section shall not be considered a disciplinary action or deprivation subject to

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due process.

(7) A city government shall be limited in the number of retired police officers that it may hire under this section as follows:

(a) A city government that employed an average of five (5) or fewer police officers over the course of calendar year 2015 shall not be limited in the number of officers that they may hire under this section;

(b) A city government that employed an average of more than five (5) but fewer than one hundred (100) police officers over the course of calendar year 2015 shall not hire more than five (5) police officers or a number equal to twenty-five percent (25%) of the police officers employed by the city in calendar year 2015, whichever is greater; and

(c) A city government that employed an average of more than one hundred (100) police officers over the course of calendar year 2015 shall not hire more than twenty-five (25) police officers or a number equal to ten percent (10%) of the police officers employed by the city in calendar year 2015, whichever is greater.

Section 2. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed as an employee by a participating agency prior to August 1, 1998, shall have his retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

* * * * *

3. Except as provided by KRS 70.291 to 70.293 and Section 1 of this Act, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and

4. Except as provided by KRS 70.291 to 70.293 and Section 1 of this Act, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium. Effective July 1, 2015, local school boards shall not be required to pay the reimbursement required by this subparagraph for retirees employed by the board for eighty (80) days or less during the fiscal year;

(c) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, and is employed in a regular full-

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time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System within one (1) month following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:

1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and

2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided; and

(d) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System after a one (1) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer;

2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;

3. Except as provided by KRS 70.291 to 70.293 **and Section 1 of this Act**, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and

4. Except as provided by KRS 70.291 to 70.293 **and Section 1 of this Act**, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium.

SENATE BILL 228

SCHOOLS

4/28/2016

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Section 1. KRS 158.148 is amended to read as follows:

(1) (a) As used in this section, "bullying" means any unwanted verbal, physical, or social behavior among students that involves a real or perceived power imbalance and is repeated or has the potential to be repeated:

1. That occurs on school premises, on school-sponsored transportation, or at a school-sponsored event; or

2. That disrupts the education process.

(b) This definition shall not be interpreted to prohibit civil exchange of opinions or debate or cultural practices protected under the state or federal Constitution where the opinion expressed does not otherwise materially or substantially disrupt the education process.

(2) [(1)] In cooperation with the Kentucky Education Association, the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Kentucky Association of Professional Educators, the Kentucky Association of School Superintendents, the Parent-Teachers Association, the Kentucky Chamber of Commerce, the Farm Bureau, members of the Interim Joint Committee on Education, and other interested groups, and in collaboration with the Center for School Safety, the Department of Education shall develop or update as needed and distribute to all districts by August 31 of each even-numbered year, beginning August 31, 2008:

(a) Statewide student discipline guidelines to ensure safe schools, including the definition of serious incident for the reporting purposes as identified in KRS 158.444;

(b) Recommendations designed to improve the learning environment and school climate, parental and community involvement in the schools, and student achievement; and

(c) A model policy to implement the provisions of this section and KRS 158.156, 158.444, 525.070, and 525.080.

(3) [(2)] The department shall obtain statewide data on major discipline problems and reasons why students drop out of school. In addition, the department, in collaboration with the Center for School Safety, shall identify successful strategies currently being used in programs in Kentucky and in other states and shall incorporate those strategies into the statewide guidelines and the recommendations under subsection (2) [(1)] of this section.

(4) [(3)] Copies of the discipline guidelines shall be distributed to all school districts. The statewide guidelines shall contain broad principles and legal requirements to guide local districts in developing their own discipline code and school councils in the selection of discipline and classroom management techniques under KRS 158.154; and in the development of the district-wide safety plan.

(5) [(4)] Each local board of education shall be responsible for formulating a code of acceptable behavior and discipline to apply to the students in each school operated by the board. The code shall be updated no less frequently than every two (2) years, with the first update being completed by November 30, 2008.

(a) The superintendent, or designee, shall be responsible for overall implementation and supervision, and each school principal shall be responsible for administration and implementation within each school. Each school council shall select and implement the appropriate discipline and classroom management techniques necessary to carry out

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the code. The board shall establish a process for a two-way communication system for teachers and other employees to notify a principal, supervisor, or other administrator of an existing emergency.

(b) The code shall prohibit bullying.

(c) The code shall contain the type of behavior expected from each student, the consequences of failure to obey the standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged.

(d)~~(e)~~ The code shall contain:

1. Procedures for identifying, documenting, and reporting incidents of bullying, incidents of violations of the code, and incidents for which reporting is required under KRS 158.156;

2. Procedures for investigating and responding to a complaint or a report of bullying or a violation of the code, or of an incident for which reporting is required under KRS 158.156, including reporting incidents to the parents, legal guardians, or other persons exercising custodial control or supervision of the students involved;

3. A strategy or method of protecting from retaliation a complainant or person reporting an incident of bullying, a violation of the code, or an incident for which reporting is required under KRS 158.156;

4. A process for informing students, parents, legal guardians, or other persons exercising custodial control or supervision, and school employees of the requirements of the code and the provisions of this section and KRS 158.156, 158.444, 525.070, and 525.080, including training for school employees; and

5. Information regarding the consequences of bullying and violating the code and violations reportable under KRS 158.154, 158.156, or 158.444.

(e) ~~(d)~~ The principal of each school shall apply the code of behavior and discipline uniformly and fairly to each student at the school without partiality or discrimination.

(f) ~~(e)~~ A copy of the code of behavior and discipline adopted by the board of education shall be posted at each school. Guidance counselors shall be provided copies for discussion with students. The code shall be referenced in all school handbooks. All school employees and parents, legal guardians, or other persons exercising custodial control or supervision shall be provided copies of the code.

SENATE CONCURRENT RESOLUTION 9

A CONCURRENT RESOLUTION recognizing the importance of removing barriers to breastfeeding in the Commonwealth.

WHEREAS, the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, the American Academy of Family Physicians, the Academy of Breastfeeding Medicine, and the World Health Organization recommend that babies be exclusively breastfed for the first six months of an infant's life and continue to be breastfed until 12 months of age or longer as mutually desired; and

WHEREAS, only 31 percent of Kentucky infants are still breastfeeding at six months of age, giving the Commonwealth the ranking 42 out of 50 for breastfeeding rates among all states; and

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WHEREAS, Kentucky's rates of breastfeeding initiation, duration, exclusivity and worksite support fall well below both the national baseline and the Healthy People 2020 goal to increase the proportion of infants who are ever breastfed to 82 percent; and

WHEREAS, in January 2011, the United States Surgeon General announced a "Call to Action to Support Breastfeeding" that identifies barriers to optimal breastfeeding in health care practices, employment, communities, research, public health infrastructure, and social networks, and also recommended methods in which families, communities, employers, and health care professionals could help eliminate those barriers to improve breastfeeding rates and increase support for breastfeeding; and

WHEREAS, children fed mainly breastmilk for the first six months of life are 22 percent less likely to be overweight by age fourteen and according to the 2014 Robert Wood Johnson's Trust for America's Health Report, Kentucky ranks number one in the nation for high school students that are obese; and

WHEREAS, research shows that human milk and breastfeeding provide advantages with regard to general health, growth, and development while significantly decreasing the risk of a large number of acute and chronic diseases such as Sudden Infant Death Syndrome, asthma, allergies, diabetes, viral and bacterial infections, childhood obesity, childhood leukemia, necrotizing enterocolitis, and infant mortality; and

WHEREAS, mothers who breastfeed have a decreased risk of breast, uterine and ovarian cancer, postpartum depression, and osteoporosis later in life; and

WHEREAS, the nutrients exclusive to human milk are vital to the growth, development, and maintenance of the human brain and cannot be manufactured; and

WHEREAS, the United States Department of Agriculture's Economic Research Service estimates that at least 3.6 billion dollars in medical expenses could be saved each year if the number of children breastfed for at least six months increased to fifty percent; and

WHEREAS, breastfeeding has positive economic impacts on families by decreasing the need to pay for medical care for a sick infant and eliminating the need to purchase infant formula; and

WHEREAS, the health benefits to breastfed children and their mothers results in lower health care costs for employers, less employee time off to care for sick children, and higher productivity and employee loyalty; and

WHEREAS, employers, employees, and society benefit by supporting a mother's decision to breastfeed and by helping to reduce the obstacles to initiating and continuing breastfeeding;

NOW, THEREFORE, Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

@Section 1. The Senate recognizes the unique health, economic, and societal benefits that breastfeeding provides to babies, mothers, families, and the community as a whole and affirms that the Commonwealth of Kentucky should work to ensure that barriers to initiation and continuation of breastfeeding are

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removed.

Section 2. The Senate encourages employers to strongly support and encourage breastfeeding by striving to provide accommodations of appropriate space and time to allow employees to express their milk.

Section 3. The Senate strongly encourages all state agencies that administer programs providing maternal or child health services to provide information about breastfeeding to program participants, and to encourage and support program participants' choices to breastfeed.

Section 4. The Clerk of the Senate is hereby directed to transmit copies of this Resolution to Senator Reginald Thomas for distribution.

HOUSE

EMERGENCY
HOUSE BILL 4 SYNTHETIC DRUGS
SIGNED INTO LAW AND EFFECTIVE AS OF APRIL 27, 2016

Section 1. KRS 218A.010 is amended to read as follows:
As used in this chapter:

* * * * *

(17) "Hydrocodone combination product" means a drug with:

(a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium; or

(b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

REMAINDER RENUMBERED

Section 2. KRS 218A.020 is amended to read as follows:

* * * * *

(3) If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the Cabinet for Health and Family Services, the Cabinet for Health and Family Services may similarly control the substance under this chapter by regulation. ~~[If hydrocodone or any drug containing hydrocodone is rescheduled to Schedule II in this manner, the prescriptive authority existing on March 19, 2013, of any practitioner licensed under the laws of the Commonwealth to prescribe, dispense, or administer hydrocodone or drugs containing hydrocodone shall remain inviolate and shall continue to exist to the same extent as if those drugs had remained classified as Schedule III controlled substances.]~~

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Section 3. KRS 218A.050 is amended to read as follows:

Unless otherwise rescheduled by administrative regulation of the Cabinet for Health and Family Services, the controlled substances listed in this section are included in Schedule I:

(1) Any material, compound, mixture, or preparation which contains any quantity of the

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following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, or salts is possible within the specific chemical designation: Acetylfentanyl; Acetylmethadol; Allylprodine; Alphacetylmethadol; Alphameprodine; Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprodine; Clonitazene; Dextromoramide; Dextrophan; Diampromide; Diethylthiambutene; Dimenoxadol; Dimepheptanol; Dimethylthiambutene; Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene; Etoxadine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide; Levophenacymorphan; Morpheridine; Noracymethadol; Norlevorphanol; Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan; Phenoperidine; Piritramide; Proheptazine; Properidine; Propiram; Racemoramide; Trimeperidine; **4-chloro-N-[1-[2-(4-nitrophenyl)ethyl]-2-piperidinylidene]-benzenesulfonamide (W-18); 4-chloro-N-[1-(2-phenylethyl)-2-piperidinylidene]-benzenesulfonamide (W-15);**²⁰

* * * * *

Section 4. KRS 218A.070 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for Health and Family Services, the controlled substances listed in this section are included in Schedule II:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, including cocaine and ecgonine and their salts, isomers, derivatives and salts of isomers and derivatives, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine; or

(e) Hydrocodone.

* * * * *

Section 5. KRS 218A.090 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for Health and Family Services, the controlled substances listed in this section are included in Schedule III:

²⁰ W-15 and W-18 are synthetic opiates, considered much more potent than fentanyl.

* * * * *

(c) ~~[Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium; (d) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts; (e)]~~Not more than one and four-fifths (1.8) grams of dihydrocodeine, or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts; ~~(d)(f)]~~Not more than three hundred (300) milligrams of ethylmorphine, or any of its salts per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more ingredients in recognized therapeutic amounts; ~~(e)(g)]~~ Not more than five hundred (500) milligrams of opium per one hundred (100) milliliters or per one hundred (100) grams, or not more than twenty-five (25) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts; ~~(f)(h)]~~ Not more than fifty (50) milligrams of morphine, or any of its salts, per one hundred (100) milliliters or per one hundred (100) grams with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts; ~~and[-]~~ and[-] ~~(g)(i)]~~ The Cabinet for Health and Family Services may except by regulation any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsection (1) of this section from the application of all or any part of this chapter if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system; ~~and[-]~~ and[-]

REMAINING RELETTERED

INTERVENING SECTIONS RELATE TO PRESCRIBING AUTHORITIES

Section 9: KRS 218A.1430 is amended to read as follows:

- (1) (a) A person is guilty of trafficking in synthetic drugs when he or she knowingly and unlawfully traffics in synthetic drugs.
- (b) Trafficking in synthetic drugs is a **Class D felony** ~~[Class A misdemeanor]~~ for the first offense and a Class **C** ~~D~~ felony for **a second or** ~~[each]~~ subsequent offense.
- (c) In lieu of the fine amounts otherwise allowed under KRS Chapter 534, for any offense under this subsection the court may impose a maximum fine of double the defendant's gain from the commission of the offense, in which case any fine money collected shall be divided between the same parties, in the same ratio, and for the same purposes as established for forfeited property under KRS 218A.420.

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(d) It shall be an affirmative defense to an offense under this subsection that the defendant committed the offense during the course of the defendant's employment as an employee of a retail store and that the defendant did not know and should not have known that the trafficked substance was a synthetic drug.

(2) (a) A person is guilty of possession of synthetic drugs when he or she knowingly and unlawfully possesses synthetic drugs.

(b) Possession of synthetic drugs is:

1. A Class A misdemeanor for the first offense; and

2. A Class D felony for each subsequent offense~~[Class B misdemeanor, except that, KRS Chapter 532 to the contrary notwithstanding, the maximum term of incarceration shall be no greater than thirty (30) days].~~

Section 10. KRS 218A.1401 is amended to read as follows:

(1) A person is guilty of selling controlled substances to a minor when he or she, being eighteen (18) years of age or older, knowingly and unlawfully sells or transfers any quantity of a controlled substance other than ~~[synthetic drugs or]~~salvia to any person under eighteen (18) years of age.

(2) Selling controlled substances to a minor is a Class C felony for a first offense, and a Class B felony for each subsequent offense, unless a more severe penalty for trafficking in controlled substances is applicable, in which case the higher penalty shall apply.

Section 11. KRS 530.064 is amended to read as follows:

(1) A person is guilty of unlawful transaction with a minor in the first degree when he or she knowingly induces, assists, or causes a minor to engage in:

(a) Illegal sexual activity; or

(b) Illegal controlled substances activity other than activity involving marijuana~~[, synthetic drugs,]~~ or salvia, as defined in KRS 218A.010; Except those offenses involving minors in KRS Chapter 531 and in KRS 529.100 where that offense involves commercial sexual activity.

(2) Unlawful transaction with a minor in the first degree is a: (a) Class C felony if the minor so used is less than eighteen (18) years old at the time the minor engages in the prohibited activity;

(b) Class B felony if the minor so used is less than sixteen (16) years old at the time the minor engages in the prohibited activity; and (c) Class A felony if the minor so used incurs physical injury thereby.

Section 12. KRS 530.065 is amended to read as follows:

(1) A person is guilty of unlawful transaction with a minor in the second degree when he knowingly induces, assists, or causes a minor to engage in illegal controlled substances activity involving marijuana~~[, synthetic drugs,]~~ illegal gambling activity, or any other criminal activity constituting a felony. (2) Unlawful transaction with a minor in the second degree is a Class D felony.

Section 5. Whereas synthetic drugs pose an immediate risk to the health and safety of the citizens of this Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon

its otherwise becoming law

HOUSE BILL 40

FELONY EXPUNGEMENT

SECTION 1. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) Any person who has been convicted of a Class D felony violation of KRS 17.175, 186.990, 194A.505, 194B.505, 217.181, 217.207, 217.208, 218A.140, 218A.1415, 218A.1416, 218A.1417, 218A.1418, 218A.1423, 218A.1439, 218A.282, 218A.284, 218A.286, 218A.320, 218A.322, 218A.324, 244.165, 286.11-057, 304.47-025, 324.990, 365.241, 434.155, 434.675, 434.850, 434.872, 511.040, 512.020, 514.030, 514.040, 514.050, 514.060, 514.065, 514.070, 514.080, 514.090, 514.100, 514.110, 514.120, 514.140, 514.150, 514.160, 516.030, 516.060, 516.090, 516.108, 517.120, 518.040, 522.040, 524.100, 525.113, 526.020, 526.030, 528.020, 528.040, 528.050, 530.010, or 530.050, or a series of Class D felony violations of one (1) or more statutes enumerated in this section arising from a single incident, or who has been granted a full pardon, may file with the court in which he or she was convicted an application to have the judgment vacated. The application shall be filed as a motion in the original criminal case. The person shall be informed of the right at the time of adjudication.

(2) A verified application to have the judgment vacated under this section shall be filed no sooner than five (5) years after the completion of the person's sentence, or five (5) years after the successful completion of the person's probation or parole, whichever occurs later. Upon the payment of the filing fee and the filing of the application, the Circuit Court clerk shall serve a notice of filing upon the office of the Commonwealth's attorney or county attorney that prosecuted the case and the county attorney of the county where the judgment was entered. The office of the Commonwealth's attorney or county attorney that prosecuted the case shall file a response within sixty (60) days after being served with the notice of filing. That time period may be extended for good cause, but the hearing on the application to vacate the judgment shall occur no later than one hundred twenty (120) days following the filing of the application. The inability to determine the location of the crime victim shall constitute good cause for an extension of time. No hearing upon the merits of the application shall be scheduled until the Commonwealth's response has been filed, or if no response is received, no later than one hundred twenty (120) days after the filing of the application.

(3) Upon the filing of the Commonwealth's response to an application, or if no response is received, no later than one hundred twenty (120) days after the filing of the application, the court shall set a date for a hearing and the Circuit Court clerk shall notify the office of the Commonwealth's attorney or county attorney that prosecuted the case. The office of the Commonwealth's attorney or county attorney that prosecuted the case shall notify the victim of the crime, if there was an identified victim. The Commonwealth's attorney or county attorney shall be authorized to obtain without payment of any fee information from the Transportation Cabinet regarding the crime victim's address on file regarding any

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vehicle operator's license issued to that person.

(4) The court may order the judgment vacated, and if the judgment is vacated the court shall dismiss with prejudice any charges which are eligible for expungement under subsection (1) of this section, Section 2 of this Act, or Section 3 of this Act, and order expunged all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, if the court finds that:

(a) The person had not previously had a felony conviction vacated and the record expunged pursuant to this section;

(b) The person had not in the five (5) years prior to the filing of the application to have the judgment vacated been convicted of a felony or a misdemeanor; and

(c) No proceeding concerning a felony or misdemeanor is pending or being instituted against the person. (5) If the court has received a response from the

office of the Commonwealth's attorney or county attorney that prosecuted the case stating no objection to the application to have the judgment vacated, or if one hundred twenty (120) days have elapsed since the filing of the application and no response has been received, the court may, without a hearing, vacate the judgment in the manner established in subsection (4) of this section.

(6) Upon entry of an order vacating and expunging a conviction, the original conviction shall be vacated and the record shall be expunged. The court and other agencies shall cause records to be deleted or removed from their computer systems so that the matter shall not appear on official state-performed background checks. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application. If the person is not prohibited from voting for any other reason, the person's ability to vote shall be restored and the person may register to vote.

(7) An order vacating a conviction under this section shall not extend or revive an expired statute of limitations, shall not constitute a finding of legal error regarding the proceedings leading to or resulting in the conviction, shall not nullify any findings of fact or conclusions of law made by the trial court or any appellate court regarding the conviction, and shall not constitute a finding of innocence regarding the conviction. (8) The Administrative Office of the Courts shall establish a form application to be used in filing an application to have judgment vacated and records expunged. (9) The filing fee for an application to have judgment vacated and records expunged shall be five hundred dollars (\$500). The first fifty dollars (\$50) of each fee collected pursuant to this subsection shall be deposited into a trust and agency account for deputy clerks and shall not be refundable.

(10) This section shall be retroactive.

Section 2. KRS 431.076 is amended to read as follows:

(1) A person who has been charged with a criminal offense and who has been found not guilty of the offense, or against whom charges have been dismissed with prejudice[,] and not in exchange for a guilty plea to another offense, or against whom felony

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charges originally filed in the District Court have not resulted in an indictment by the grand jury, may ***petition***~~[make a motion, in]~~ the District or Circuit Court in which the charges were filed~~[,]~~ to expunge all records.

(2) The expungement ***petition***~~[motion]~~ shall be filed no sooner than sixty (60) days following the order of acquittal or dismissal by the court ***or twelve (12) months following the date of the District Court decision to hold the matter to the grand jury. The petition shall be served upon the office of the Commonwealth's attorney or county attorney that prosecuted the case.***

(3) Following the filing of the ***petition***~~[motion]~~, the court may set a date for a hearing. If the court does so, it shall notify the county or Commonwealth's attorney, as appropriate, of an opportunity for a response to the expungement ***petition***~~[motion]~~. In addition, if the criminal charge relates to the abuse or neglect of a child, the court shall also notify the Office of General Counsel of the Cabinet for Health and Family Services of an opportunity for a response to the expungement ***petition***~~[motion]~~. The counsel for the Cabinet for Health and Family Services shall respond to the expungement ***petition***~~[motion]~~, within twenty (20) days of receipt of the notice, which period of time shall not be extended by the court, if the Cabinet for Health and Family Services has custody of records reflecting that the person charged with the criminal offense has been determined by the cabinet or by a court under KRS Chapter 620 to be a substantiated perpetrator of child abuse or neglect. If the cabinet fails to respond to the expungement ***petition***~~[motion]~~ or if the cabinet fails to prevail, the order of expungement shall extend to the cabinet's records. If the cabinet prevails, the order of expungement shall not extend to the cabinet's records.

(4) If the court finds that there are no current charges or proceedings pending relating to the matter for which the expungement is sought, the court may grant the ***petition***~~[motion]~~ and order the expunging of all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records. ***If the expungement petition pertains to felony charges originally filed in the District Court which have not resulted in an indictment by the grand jury, and the Circuit Court or District Court grants the motion, it shall dismiss the charges and order the expunging of the records.*** The court shall order the expunging on a form provided by the Administrative Office of the Courts. Every agency, with records relating to the arrest, charge, or other matters arising out of the arrest or charge, that is ordered to expunge records, shall certify to the court within sixty (60) days of the entry of the expungement order, that the required expunging action has been completed. All orders enforcing the expungement procedure shall also be expunged.

(5) ***If an expungement is ordered under this section, an appellate court which issued an opinion in the case may, upon motion of the petitioner in the case, order the appellate case file to be sealed and also direct that the version of the appellate opinion published on the court's Web site be modified to avoid use of the petitioner's name in the case title and body of the opinion.***

(6) After the expungement, the proceedings in the matter shall be deemed never to have occurred. The court and other agencies shall delete or remove the records from their computer systems so that any official state-performed background check will indicate that the records do not exist. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall

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not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application.

~~(7)(6)~~ This section shall be retroactive.

Section 3. KRS 431.078 is amended to read as follows:

(1) Any person who has been convicted of:

(a) A misdemeanor, a violation, or a traffic infraction not otherwise classified as a misdemeanor or violation, or a series of misdemeanors, violations, or traffic infractions arising from a single incident; ~~or~~]

(b) **A series of misdemeanors, violations, or traffic infractions not arising from a single incident;** may petition the court in which he was convicted for expungement of his misdemeanor or violation record **within that judicial district**, including a record of any charges for misdemeanors, ~~or~~ violations, **or traffic infractions** that were dismissed or amended in the criminal action. The person shall be informed of the right at the time of adjudication.

(2) Except as provided in KRS 218A.275(8) and 218A.276(8), the petition shall be filed no sooner than five (5) years after the completion of the person's sentence or five (5) years after the successful completion of the person's probation, whichever occurs later.

(3) Upon the filing of a petition, the court shall set a date for a hearing, **no sooner than thirty (30) days after the filing of the petition**, and shall notify the county attorney; the victim of the crime, if there was an identified victim; and any other person whom the person filing the petition has reason to believe may have relevant information related to the expungement of the record. Inability to locate the victim shall not delay the proceedings in the case or preclude the holding of a hearing or the issuance of an order of expungement.

(4) For a petition brought under subsection (1)(a) of this section, the court shall order expunged all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, if at the hearing the court finds that:

(a) The offense was not a sex offense or an offense committed against a child;

(b) ~~The person had no previous felony conviction;~~

~~(c) The person had not been convicted of any other misdemeanor or violation offense in the five (5) years prior to the conviction sought to be expunged;~~

~~(d) The person had not~~ **in the five (5) years prior to the filing of the petition for expungement**~~since the time of the conviction sought to be expunged] been convicted of a felony or[,] a misdemeanor[, or a violation];~~

~~(c)(e) No proceeding concerning a felony or[,] misdemeanor[, or violation] is pending or being instituted against the person[him]; and~~

(d) {(f)} The offense is not one subject to enhancement for a second or subsequent offense or the time for such an enhancement has expired~~The offense was an offense against the Commonwealth of Kentucky].~~

(5) For a petition brought under subsection (1)(b) of this section, the court may order expunged all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, if at the hearing the court finds that:

(a) The offense was not a sex offense or an offense committed against a child;

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(b) The person had not in the five (5) years prior to the filing of the petition for expungement been convicted of a felony or a misdemeanor;

(c) No proceeding concerning a felony or misdemeanor is pending or being instituted against the person; and

(d) The offense is not one subject to enhancement for a second or subsequent offense or the time for such an enhancement has expired.

(6) Upon the entry of an order to expunge the records, ~~[and payment to the circuit clerk of one hundred dollars (\$100),]~~ the proceedings in the case shall be deemed never to have occurred; the court and other agencies shall cause records to be deleted or removed from their computer systems so that the matter shall not appear on official state-performed background checks; the persons and the court may properly reply that no record exists with respect to the persons upon any inquiry in the matter; and the person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application.

(7) The filing fee for a petition under this section shall be one hundred dollars (\$100). The first fifty dollars (\$50) of each fee collected pursuant to this subsection shall be ~~[deposited into the general fund, and the remainder shall be]~~deposited into a trust and agency account for deputy clerks **and shall not be refundable.**

REMAINDER RENUMBERED

Section 4. KRS 431.079 is amended to read as follows:

(1) Beginning January 1, 2014, every petition **or application** filed seeking expungement shall include a certification of eligibility for expungement. The Department of Kentucky State Police and the Administrative Office of the Courts shall certify that the agencies have conducted a criminal background check on the petitioner and whether or not the petitioner is eligible to have the requested record expunged. The Department of Kentucky State Police shall promulgate administrative regulations to implement this section, in consultation with the Administrative Office of the Courts.

(2) For the purposes of this section, ~~[and]~~ KRS 431.076, **Section 1 of this Act,** and 431.078, "expungement" means the removal or deletion of records by the court and other agencies which prevents the matter from appearing on official state-performed background checks.

SECTION 5. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

The Administrative Office of the Courts shall retain an index of expungement orders entered under Section 1 of this Act. The index shall only be accessible to persons preparing a certification of eligibility for expungement pursuant to Section 4 of this Act. If the index indicates that the person applying for expungement has had a prior felony expunged under Section 1 of this Act, the person preparing the report may, notwithstanding the provisions of Section 1 of this Act, access the expunged record and include information from the expunged record in the certification.

HOUSE BILL 124

BODY-WORN CAMERAS

Section 1. KRS 16.220 is amended to read as follows:

(1) Subject to the duty to return confiscated firearms to innocent owners pursuant to KRS 500.090, all firearms confiscated by the Department of Kentucky State Police and not retained for official use pursuant to KRS 500.090 shall be sold at public auction to federally licensed firearms dealers holding a license appropriate for the type of firearm sold. Any provision of KRS Chapter 45 or 45A relating to disposition of property to the contrary notwithstanding, the Department of Kentucky State Police shall:

(a) Conduct any auction specified by this section;

(b) Retain for departmental use twenty percent (20%) of the gross proceeds from any auction specified by this section; and

(c) Transfer remaining proceeds of the sale to the account of the Kentucky Office of Homeland Security for use as provided in subsection (4) of this section.

(2) Prior to the sale of any firearm, the Department of Kentucky State Police shall make an attempt to determine if the firearm to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law.

(3) The Department of Kentucky State Police shall receive firearms and ammunition confiscated by or abandoned to every law enforcement agency in Kentucky. The department shall dispose of the firearms received in the manner specified in subsection (1) of this section. However, firearms which are not retained for official use, returned to an innocent lawful owner, or transferred to another government agency or public museum shall be sold as provided in subsections (1) and (3) of this section.

(4) The proceeds of firearms sales shall be utilized by the Kentucky Office of Homeland Security to provide grants to city, county, charter county, unified local government, urban-county government, and consolidated local government police departments; university safety and security departments organized pursuant to KRS 164.950; school districts that employ special law enforcement officers as defined in KRS 61.900; and sheriff's departments for the purchase of:

(a) Body armor for sworn peace officers of those departments and service animals, as defined in KRS 525.010, of those departments;

(b) Firearms or ammunition;[and]

(c) Electronic control devices, electronic control weapons, or electro-muscular disruption technology; and

(d) Body-worn cameras.

In awarding grants under this section, the Kentucky Office of Homeland Security shall give first priority to providing and replacing body armor and second priority to providing firearms and ammunition, with residual funds available for the purchase of **body-worn cameras**, electronic control devices, electronic control weapons, or electro-muscular disruption technology. Body armor purchased by the department receiving grant funds shall meet or exceed the standards issued by the National Institute of Justice for body armor. No police or sheriff's department shall apply for a grant to replace existing body armor unless that body armor has been in actual use for a period of five (5) years or longer. **Any department applying for grant funds for body-worn cameras shall develop a policy for their use and shall submit that policy with its application for**

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the grant funds to the Office of Homeland Security as part of the application process.

(5) The Department of Kentucky State Police may transfer a machine gun, short-barreled shotgun, short-barreled rifle, silencer, pistol with a shoulder stock, any other weapon, or destructive device as defined by the National Firearms Act which is subject to registration under the National Firearms Act and is not properly registered in the national firearms transfer records for those types of weapons, to the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of Justice, after a reasonable attempt has been made to transfer the firearm to an eligible state or local law enforcement agency or to an eligible museum and no eligible recipient will take the firearm or weapon. National Firearms Act firearms and weapons which are properly registered and not returned to an innocent lawful owner or retained for official use as provided in this section shall be sold to properly licensed dealers under subsection (3) of this section.

HOUSE BILL 132

BOOKING PHOTOS

SECTION 1. A NEW SECTION OF KRS 61.870 TO 61.884 IS CREATED TO READ AS FOLLOWS:

(1) A person shall not utilize a booking photograph or a photograph of an inmate taken pursuant to KRS 196.099 originally obtained from a public agency for a commercial purpose if:

(a) The photograph will be placed in a publication or posted on a Web site; and

(b) Removal of the photograph from the publication or Web site requires the payment of a fee or other consideration.

(2) Any person who has requested the removal of a booking photograph or photo taken pursuant to KRS 196.099 of himself or herself:

(a) Which was subsequently placed in a publication or posted on a Web site; and

(b) Whose removal requires the payment of a fee or other consideration; shall have a right of action in Circuit Court by injunction or other appropriate order and may also recover costs and reasonable attorney's fees.

(3) At the court's discretion, any person found to have violated this section in an action brought under subsection (2) of this section, may be liable for damages for each separate violation, in an amount not less than:

(a) One hundred (\$100) dollars a day for the first thirty (30) days;

(b) Two hundred and fifty (\$250) dollars a day for the subsequent thirty (30) days; and

(c) Five hundred (\$500) dollars a day for each day thereafter. If a violation is continued for more than one (1) day, each day upon which the violation occurs or is continued shall be considered and constitute a separate violation.

Section 2. KRS 61.870 is amended to read as follows:

As used in KRS **61.870**~~[61.872]~~ to 61.884, unless the context requires otherwise:

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(9) "Booking photograph and photographic record of inmate" means a photograph or image of an individual generated by law enforcement for identification purposes when the individual is booked into a detention facility as defined in KRS 520.010 or photograph and image of an inmate taken pursuant to KRS 196.099.

Section 3. KRS 441.127 is amended to read as follows:

(1) ~~[Unless precluded by written order of the sentencing court with regard to a specific inmate or inmates,]~~The jailer or correctional services department **shall** ~~[may]~~ grant sentence credits to inmates confined in the county jail on conviction of misdemeanor charges~~[for labor performed without the jail in a community service program or within the jail for the maintenance of the jail or for the operation of jail services such as food service].~~

(2) Credit, if granted, shall be uniform and shall be based on the following:

(a) **For labor performed without the jail in a community service program or within the jail for the maintenance of the jail or for the operation of jail services such as food service:**

1. For every eight (8) full hours of work, one (1) sentence credit shall be earned; **and**

2. ~~[(b)]~~For every five (5) of sentence credits earned, one (1) day of the sentence to be served by the inmate shall be deducted;~~[and]~~

(b) For successfully receiving a general equivalency diploma or a high school diploma, a service credit of thirty (30) days shall be earned; and

(c) For good behavior, an amount not to exceed five (5) days shall be earned for each month served, to be determined by the jailer or chief executive of the jail for the conduct of the inmate.

Sentence credits shall be deducted from the maximum expiration date of the sentence.

(3) If an inmate violates the rules of the jail or engages in other misconduct the jailer or correctional services department may withdraw sentence credits earned by the inmate. The jailer or correctional services department shall maintain a list of offenses and penalties for the ten (10) most common offenses and rule violations.

HOUSE BILL 162

HARASSING COMMUNICATIONS

Section 1. KRS 525.080 is amended to read as follows:

(1) A person is guilty of harassing communications when, with intent to intimidate, harass, annoy, or alarm another person, he or she:

(a) Communicates with a person, anonymously or otherwise, by telephone, telegraph, mail, or any other form of **electronic or** written communication in a manner which causes annoyance or alarm and serves no purpose of legitimate communication;

(b) Makes a telephone call, whether or not conversation ensues, with no purpose of legitimate communication; or

(c) Communicates, while enrolled as a student in a local school district, with or about another school student, anonymously or otherwise, by telephone, the Internet, telegraph, mail, or any other form of electronic or written communication in a manner which a reasonable person under the circumstances should know would cause the

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other student to suffer fear of physical harm, intimidation, humiliation, or embarrassment and which serves no purpose of legitimate communication. (2) Harassing communications is a Class B misdemeanor.

HOUSE BILL 175 **FEDERAL PEACE OFFICERS**

Section 1. KRS 61.365 is amended to read as follows:

The following persons who are employed by the federal government as law enforcement or investigative officers who have the power of arrest and who are residents of the Commonwealth of Kentucky shall be deemed peace officers and shall have the same powers and duties of any other peace officer in the Commonwealth, except that they shall not be required to serve process unless permitted to do so by their respective agencies:

- (1) Federal Bureau of Investigation special agents;
- (2) United States Secret Service special agents;
- (3) United States Marshal's service deputies;
- (4) Drug Enforcement Administration special agents;
- (5) Bureau of Alcohol, Tobacco, ~~and~~ Firearms, **and Explosives** special agents;
- (6) United States Forest Service special agents and law enforcement officers;
- (7) Special agents and law enforcement officers of the Office of the Inspector General of the United States Department of Agriculture;
- (8) United States **Immigration and** Customs **Enforcement** ~~(Service)~~ special agents; and
- (9) United States National Park Service law enforcement rangers.

HOUSE BILL 189 **INTERLOCAL AGREEMENTS**

SECTION 1. A NEW SECTION OF KRS 65.210 TO 65.300 IS CREATED TO READ AS FOLLOWS:

(1) Provided that the terms of the agreement are not being substantively changed, whenever an existing agreement that complies with the requirements of KRS 65.210 to 65.300 is amended to join new parties or to remove existing parties, approval of the Attorney General or the Department for Local Government under KRS 65.260 and approval of the agency or officer with jurisdiction under KRS 65.300 shall not be required for the amendment to be effective.

(2) In lieu of the requirements of KRS 65.290, when an agreement is amended pursuant to subsection (1) of this section, each public agency subject to the agreement, including any public agency withdrawing from the agreement, shall send the following to the county clerk of the county in which it is located, to the Secretary of State, and to either the Attorney General or the Department for Local Government, if either agency would have had the responsibility for review under KRS 65.260:

(a) A copy of the full agreement, including any amendments;

(b) A statement containing the effective date and subject of the original agreement;

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(c) A list of the parties being added to or removed from the agreement; and
(d) A certification signed by each party being added to the agreement that confirms that the party is:

1. A public agency as defined in KRS 65.230; and
2. Eligible under KRS 65.240 to join the interlocal agreement with the existing parties to the agreement.

(3) Public agencies may, by the terms of an agreement made pursuant to KRS 65.210 to 65.300, specify the manner in which parties may be added to or removed from the agreement pursuant to this section. The language may authorize the addition of new parties or the removal of existing parties with or without the requirement of action by the legislative body of each public agency that is a party to the existing agreement or with a requirement of action by a minimum percentage of the legislative bodies of the public agencies that are parties to the agreement. In the absence of this language, action by the legislative body of each public agency that is a party to the existing agreement shall be required to amend the agreement to add new parties or remove existing parties.

EMERGENCY
HOUSE BILL 204 **PEACE OFFICER CERTIFICATION**
SIGNED INTO LAW AND EFFECTIVE AS OF MARCH 18, 2016

Section 1. KRS 15.382 is amended to read as follows:

A person certified after December 1, 1998, under KRS 15.380 to 15.404 shall, at the time of becoming certified, meet the following minimum qualifications: (1) Be a citizen of the United States; (2) Be at least twenty-one (21) years of age;

(3) (a) Be a high school graduate, regardless of whether the school is accredited or certified by a governing body, provided that the education received met the attendance and curriculum standards of Kentucky law at the time of graduation, as determined by the Kentucky Department of Education;[or]

(b) Have successfully completed a General Education Development (G.E.D.) examination; or

(c) Have received a high school diploma through participation in the external diploma program;

* * * * *

Section 2. KRS 15.3971 is amended to read as follows:

(1) A person certified as a court security officer after June 26, 2007, under KRS 15.380 to 15.404 shall, at the time of becoming certified, meet the following minimum qualifications:

(a) Be a citizen of the United States; (b) Be at least twenty-one (21) years of age;

(c) 1. Be a high school graduate, regardless of whether the school is accredited or certified by a governing body, provided that the education received met the attendance and curriculum standards of Kentucky law at the time of graduation, as determined by the Kentucky Department of Education;[or]

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2. Have successfully completed a General Educational Development (GED) examination; or
3. **Have received a high school diploma through participation in the external diploma program;**

* * * * *

Section 3. KRS 15.540 is amended to read as follows:

- (1) An agency hiring a telecommunicator after July 15, 2006, shall certify to the Department of Criminal Justice Training before admission to the telecommunicator training program that the telecommunicator:
 - (a) Is a citizen of the United States and has reached the age of majority;
 - (b) 1. Is a high school graduate, **regardless of whether the school is accredited or certified by a governing body, provided that the education received met the attendance and curriculum standards of Kentucky law at the time of graduation, as determined by the Kentucky Department of Education;[or]**
 2. Has received a general equivalency diploma (GED); **or**
 3. **Has received a high school diploma through participation in the external diploma program;**

Section 4. KRS 95.951 is amended to read as follows:

- As of July 14, 1992, no person shall be originally appointed or employed as a police officer or an auxiliary police officer by a city, urban-county, or charter county government in the Commonwealth unless he: (1) Is at least twenty-one (21) years of age; and (2) (a) Is a high school graduate, **regardless of whether the school is accredited or certified by a governing body, provided that the education received met the attendance and curriculum standards of Kentucky law at the time of graduation, as determined by the Kentucky Department of Education;**
- (b) Has received a general equivalency diploma (G.E.D.);[,] **or**
 - (c) Has received a high school diploma through participation in the external diploma program.**

Section 5. Whereas public safety depends on the effectiveness of law enforcement, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

HOUSE BILL 250

ARREST POWERS

Section 1. KRS 431.015 is amended to read as follows:

- (1) (a) KRS 431.005 to the contrary notwithstanding, and except as provided in paragraphs (b), (c), and (d) of this subsection, a peace officer shall issue a citation instead of making an arrest for a misdemeanor committed in his or her presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. The citation shall provide that the defendant shall appear within a designated time.
- (b) A peace officer may make an arrest instead of issuing a citation for a misdemeanor

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committed in his or her presence if the misdemeanor is:

1. A violation of KRS Chapter 508, 510, or 527, or KRS 189A.010, **511.050, 511.085, 514.110, or Section 2 of this Act**;

2. An offense in which the defendant poses a risk of danger to himself, herself, or another person; or

3. An offense in which the defendant refuses to follow the peace officer's reasonable instructions.

(c) A peace officer shall make an arrest for violations of protective orders issued pursuant to KRS 403.715 to 403.785 or an order of protection as defined in KRS 456.010.

(d) A peace officer may make an arrest or may issue a citation for a violation of KRS 508.030 which occurs in the emergency room of a hospital pursuant to KRS 431.005(1)(f).

(2) A peace officer may issue a citation instead of making an arrest for a violation committed in his or her presence but may not make a physical arrest unless there are reasonable grounds to believe that the defendant, if a citation is issued, will not appear at the designated time or unless the offense charged is a violation of KRS 189.223, 189.290, 189.393, 189.520, 189.580, 235.240, 281.600, 511.080, or 525.070 committed in his or her presence or a violation of KRS 189A.010, not committed in his or her presence, for which an arrest without a warrant is permitted under KRS 431.005(1)(e).

(3) If the defendant fails to appear in response to the citation, or if there are reasonable grounds to believe that he or she will not appear, a complaint may be made before a judge and a warrant shall issue.

(4) When a physical arrest is made and a citation is issued in relation to the same offense the officer shall mark on the citation, in the place specified for court appearance date, the word "ARRESTED" in lieu of the date of court appearance.

Section 2. KRS 523.110 is amended to read as follows:

(1) A person is guilty of giving a peace officer **false identifying information** ~~[a false name or address]~~ when he **or she** gives a false name, ~~[or]~~ address, **or date of birth** to a peace officer who has asked for the same in the lawful discharge of his **or her** official duties with the intent to mislead the officer as to his **or her** identity. The provisions of this section shall not apply unless the peace officer has first warned the person whose identification he **or she** is seeking that giving a peace officer **false identifying information** ~~[a false name or address]~~ is a criminal offense.

(2) Giving a peace officer **false identifying information** ~~[a false name or address]~~ is a Class B misdemeanor.

EMERGENCY
HOUSE BILL 314 **OFF DUTY CARRY**
SIGNED INTO LAW AND EFFECTIVE AS OF APRIL 13, 2016

SECTION 1. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

Off-duty peace officers authorized to do so by the government employing the

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officer and retired peace officers certified under KRS 237.138 to 237.142 may carry concealed firearms on or about their persons at all times and at any location within the Commonwealth where an on-duty peace officer is permitted to carry firearms.

Section 2. Whereas public protection is of the highest priority, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law

HOUSE BILL 381 CORONER TRAINING

Section 1. KRS 64.185 is amended to read as follows:

(1)(a) Coroners shall receive out of the county, consolidated local government, charter county government, urban-county government, or unified local government treasury, whichever is appropriate, the monthly compensation the fiscal court of each county shall fix, subject to the following minimums:

County Population	Monthly Minimum Compensation
1. [(a)] 10,000 or less	\$200
2. [(b)] 10,001 to 20,000	\$300
3. [(c)] 20,001 to 40,000	\$350
4. [(d)] 40,001 to 60,000	\$400
5. [(e)] 60,001 to 100,000	\$450
6. [(f)] 100,001 to 150,000	\$800
7. [(g)] 150,001 or more	\$1,000

(b) Coroners who hold a current certificate of continuing education, issued jointly by the Department of Criminal Justice Training, Justice and Public Safety Cabinet, and the Office of the Kentucky State Medical Examiner, Justice and Public Safety Cabinet, shall be paid the following minimum monthly compensation set forth in this subsection in recognition of the training:

County Population	Monthly Minimum Compensation
1. [(a)] 10,000 or less	\$400
2. [(b)] 10,001 to 20,000	\$500
3. [(c)] 20,001 to 40,000	\$650
4. [(d)] 40,001 to 60,000	\$750
5. [(e)] 60,001 to 100,000	\$850
6. [(f)] 100,001 to 150,000	\$1,100
7. [(g)] 150,001 or more	\$1,300

(2) Deputy coroners who hold a current certificate of continuing education, as described

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in subsection (1)(b) of this section, shall receive out of the county, consolidated local government, charter county government, urban-county government, or unified local government treasury, whichever is appropriate, the monthly compensation the fiscal court of each county shall fix, subject to the following minimums:

County Population	Monthly Minimum Compensation
(a) 10,000 or less	\$200
(b) 10,001 to 20,000	\$250
(c) 20,001 to 40,000	\$275
(d) 40,001 to 60,000	\$300
(e) 60,001 to 100,000	\$400
(f) 100,001 to 150,000	\$900
(g) 150,001 or more	\$1,100

(3) The fiscal court of any county, or the legislative body of a consolidated local government, charter county government, urban-county government, or unified local government may compensate coroners and deputy coroners an additional amount of up to three hundred dollars (\$300) per month as an expense allowance.

(4) The initial course of continuing education required under subsection (1)(b) of this section shall consist of a **forty (40) hour** basic training course prescribed by the Justice and Public Safety Cabinet. Annually thereafter the coroner shall attend and successfully complete at least eighteen (18) hours of approved training in order to be compensated in accordance with subsection (1)(b) of this section.

(5) If a deputy coroner assumes the office of coroner after receiving the training stipulated in this section, the deputy coroner shall be compensated in accordance with the compensation schedule set forth in subsection (1) (b) of this section. (6) The number of deputy coroners in a county shall not exceed one (1) for each twenty-five thousand (25,000) inhabitants, or fraction thereof, according to the most recent federal census, but every coroner may, subject to the approval of the legislative body of the county, consolidated local government, charter county government, urban-county government, or unified local government, appoint additional deputy coroners, regardless of population.

HOUSE BILL 384
FITNESS

EMERGENCY SERVICES HEALTH AND

SECTION 1. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Emergency services personnel" means any nonelected persons employed by or volunteering for a:

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1. Fire department operating under KRS Chapter 67 or 95 or under the authority of an urban-county government, consolidated local government, charter-county government or unified local government;

2. Police department operating under KRS Chapter 67 or 95 or under the authority of an urban-county government, consolidated local government, charter-county government, or unified local government; or

3. Sheriff's department; and

(b) "Local government" means a city, county, urban-county government, charter county government, consolidated local government, or unified local government.

(2) Any local government or group of local governments may elect, through the adoption of an ordinance, or identical ordinances in the case of a group of local governments, to establish an incentive program for emergency services personnel to be rewarded for their leadership in achieving health and fitness goals that can be a model for others in the community.

(3) The ordinance or ordinances shall specify what measures shall be part of the incentive program, which may include the following health and fitness indicators:

(a) Fasting blood lipid levels that include total cholesterol, low density lipoproteins, high density lipoproteins, and triglycerides;

(b) Fasting glucose levels;

(c) Systolic and diastolic blood pressure levels, the measurement of which is encouraged to be recorded when the participant is in a more relaxed state;

(d) Fitness levels, including activities such as distances walked, pushups, situps, pull-ups, and, in lieu of pull-ups for females, timed hangs;

(e) Body fat percentages;

(f) Body mass index; and

(g) Any other measure of fitness or health as determined by the local government, such as a reduction in the use of tobacco products or sodium.

The ordinance or ordinances may provide considerations for differences in age and gender of the emergency services personnel. Local governments are encouraged, at a minimum, to include in their program the measures indicated in paragraphs (a) to (c) of this subsection.

(4) (a) Local governments may reward participants who make the most positive gains in the health and fitness indicators measured by the local government.

(b) The ordinance or ordinances shall clearly set out what health and fitness standards will be rewarded within the selected measures.

(5) The ordinance or ordinances may include a step-based system of awards, in the instance if a certain standard is met consistently or consecutively for an established duration of time, the reward is to be incrementally increased.

(6) The ordinance or ordinances, in addition to or in lieu of rewarding individual emergency services personnel performance, may reward performance to a particular department or any combination of departments either in the local government or among different local governments.

(7) The reward may be monetary in nature, or any other consideration or reward not otherwise prohibited by state or federal law.

(8) A local government may, by ordinance, elect to repeal the program.

(9) Any monetary reward provided under this section shall not be included in the

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calculation for a retirement allowance for any emergency services personnel participating in the County Employees Retirement System set out in KRS 78.510 to 78.852.

(10) A local government shall follow any applicable state and federal laws in the gathering of any health and fitness data from participants in the program, including the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

(11) Local governments are encouraged to acquire health and fitness baseline data for the participants by using previously collected health and fitness data or by collecting health and fitness data on the participants at the beginning of the program or when they begin participating in the program.

(12) Each local government adopting an ordinance pursuant to this section shall send a copy of its ordinance, and any amendments thereto, to the Kentucky Department for Local Government. The ordinance or amendment may be sent electronically or by any other method deemed suitable by the local government. The ordinances and amendments shall be deemed public records pursuant to KRS 61.870 to 61.884. (13) A local government may accept money by grant, gift, donation, bequest, legislative appropriation, or other conveyance to be used for the sole purpose of this section and shall be placed in a separate account apart from all other funds of the local government.

(14) Nothing in this section shall be construed to prohibit any local government from enacting or establishing alternative incentives or from participating in other incentive programs for the rewarding of health or fitness levels or goals.

(15) Participation in the program shall be voluntary on the part of emergency services personnel. The failure of any emergency services personnel to meet a standard set out in this program, or to participate in the program, shall not be used as a measure of his or her job-related performance.

HOUSE BILL 428

ANIMAL CRUELTY

Section 1. KRS 525.125 is amended to read as follows:

(1) As used in this section:

(a) "Dog" means a domesticated canid of the genus *canis lupus familiaris*; and

(b) "Dog fight" or "dog fighting" means any event that involves a fight conducted or to be conducted between at least two (2) dogs for purposes of sport, wagering, or entertainment, except that the term "dog fight" or "dog fighting" shall not be deemed to include any activity the purpose of which involves the use of one (1) or more dogs in hunting or taking another animal.

(2) The following persons are guilty of cruelty to animals in the first degree:

(a) Whenever a ~~dog~~^{four-legged animal} is **knowingly** caused to ~~dog~~ fight for pleasure or profit:

1. ~~{(a)}~~ The owner of the ~~dog~~ ^{animal};

2. ~~{(b)}~~ The owner of the property on which the fight is conducted if the owner knows of the ~~dog~~ fight; **and**

3. ~~{(c)}~~ Anyone who participates in the organization of the ~~dog~~ fight; **and**

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(b) Any person who knowingly owns, possesses, keeps, trains, sells, or otherwise transfers a dog for the purpose of dog fighting.

(3)[(2)] Activities of dogs [animals] engaged in hunting, field trials, dog training, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife Resources shall not constitute a violation of this section.

(4)[(3)] Activities of dogs engaged in working or guarding livestock shall not constitute a violation of this section.

(5) Cruelty to animals in the first degree is a Class D felony.

HOUSE BILL 434

CORONER RECORDS

SECTION 1. A NEW SECTION OF KRS CHAPTER 72 IS CREATED TO READ AS FOLLOWS:

(1) An outgoing coroner shall turn over all of his or her records relating to the office of coroner to the clerk of the fiscal court within ten (10) days of the end of his or her term or the date of removal or vacancy. The clerk of the fiscal court shall deliver these records to the new coroner within ten (10) days of the office being filled. (2) Any coroner who fails to comply with subsection (1) of this section shall be fined one hundred dollars (\$100) for each day the coroner fails to turn over the records of his or her office to the fiscal court clerk. The fine shall be remitted to the clerk of the fiscal court and placed in the county general fund. An outgoing coroner may appeal this fine to the Circuit Court of competent jurisdiction.

Section 2. KRS 72.415 is amended to read as follows:

(1) For the purpose of enforcing the provisions of KRS 72.410 to 72.470, coroners and deputy coroners shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to:

- (a) Administer oaths;
- (b) Enter upon public or private premises for the purpose of making investigations;
- (c) Seize evidence;
- (d) Interrogate persons;
- (e) Require the production of medical records, books, papers, documents, or other evidence;
- (f) Impound vehicles involved in vehicular deaths;
- (g) Employ special investigators and photographers; and (h) Expend funds for the purpose of carrying out the provisions of KRS 72.410 to 72.470. The fiscal court or urban-county government shall pay all reasonable expenses incurred by the coroner and his deputy in carrying out his responsibilities under the provisions of KRS 72.410 to 72.470.

(2) (a) No person shall be eligible to hold the office of deputy coroner unless he holds a high school diploma or its recognized equivalent. Every deputy coroner, other than a licensed physician, shall be required as a condition of office to take during every calendar year he or she is in office the training course of at least eighteen (18) hours provided by the Department of Criminal Justice Training or

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other courses approved by the Justice and Public Safety Cabinet after having completed the basic training course the first year of employment. The training course shall include material developed by the cabinet and approved by the Cabinet for Health and Family Services on the human immunodeficiency virus infection and acquired immunodeficiency syndrome. The material shall include information on known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change.

(b) 1. Any deputy coroner subject to the training requirements of paragraph (a) of this subsection who fails to complete the mandated training shall be ineligible to perform the duties of deputy coroner, and may be terminated by the coroner. The coroner shall make written notification of the deputy coroner's ineligibility to perform his or her duties to the deputy coroner and to the fiscal court or the legislative body of the consolidated local government, charter county government, urban-county government, or unified local government.

2. The deputy coroner shall regain his or her eligibility upon successful recompletion of the initial basic training course referenced in KRS 64.185(4), which shall be evidenced by written certification provided by the Department of Criminal Justice Training to the coroner. Upon receipt of the certification, the coroner shall make written notification of the reinstatement of eligibility to the deputy coroner and to the fiscal court or the legislative body of the consolidated local government, charter county government, urban-county government, or unified local government.

3. The compensation of a deputy coroner who becomes ineligible to perform his or her duties under subparagraph 1. of this paragraph shall be modified as follows:

a. From the coroner's written notification of ineligibility until the deputy coroner begins the basic training course mandated by subparagraph 2. of this paragraph, the deputy coroner shall receive no compensation;

b. From the first day that the deputy coroner begins the basic training course mandated by subparagraph 2. of this paragraph until written notification of course outcome is received by the coroner, the deputy coroner shall be compensated at his or her previously established rate of compensation;

c. If the deputy coroner fails the basic training course mandated by subparagraph 2. of this paragraph, the deputy coroner shall receive no compensation from the date of receipt of notification of failure from Department of Criminal Justice Training to the coroner until the deputy coroner begins anew the basic training course mandated by subparagraph 2. of this paragraph, at which time the deputy coroner shall be compensated at his or her previously established rate of compensation; and

d. If the deputy coroner successfully completes the basic training course mandated by subparagraph 2. of this paragraph as evidenced by written certification provided by the Department of Criminal Justice Training to the coroner, the deputy coroner shall receive compensation as is normally determined for deputy coroners pursuant to statute.

HOUSE BILL 473

PEACE OFFICER TRAINING

Section 1. KRS 15.404 is amended to read as follows:

(1) (a) Any peace officers employed or appointed after December 1, 1998, who have not successfully completed basic training at a school certified or recognized by the Kentucky Law Enforcement Council, shall within one (1) year of their appointment or employment, successfully complete ~~a[at least six hundred forty (640) hours of]~~ basic training **course, as established by Section 2 of this Act,** at a school certified or recognized by the Kentucky Law Enforcement Council.

* * * * *

Section 2. KRS 15.440 is amended to read as follows:

(1) Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:

- (a) Employs one (1) or more police officers;
- (b) Pays every police officer at least the minimum federal wage;
- (c) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky Law Enforcement Council, for employment of police officers on or after July 1, 1972, and for all sheriffs appointed or elected on or after July 15, 1998, and all deputy sheriffs, and state or public university police officers employed after July 15, 1998; provided, however, that all police officers employed prior to July 1, 1972, shall be deemed to have met the requirements of this subsection, and that all sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to July 15, 1998, shall be deemed to have met the requirements of this subsection;
- (d) 1. Requires all police officers employed on or after July 1, 1972, and all sheriffs appointed or elected on or after July 15, 1998, and deputy sheriffs, and state or public university police officers employed on or after January 1, 1998, to successfully complete a basic training course of **nine hundred twenty-eight (928)**~~[at least six hundred forty (640)]~~ hours' duration within one (1) year of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council, **which may provide a different number of hours of instruction as established in this paragraph.** All sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to January 1, 1998, shall be deemed to have met the requirements of this subsection.

2. As the exclusive method by which the number of hours required for basic training courses shall be modified from that which is specifically established by this paragraph, the council may, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, **explicitly** set the **exact** number of hours for basic training at a number different from~~[higher than]~~ **nine hundred twenty-eight (928)**~~[six hundred forty (640)]~~ hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis.

3. If the council sets an exact number of hours different from nine hundred twenty-eight (928) in an administrative regulation as set out in this paragraph, it shall not further change the number of hours required for basic training without

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promulgating administrative regulations in accordance with the provisions of KRS Chapter 13A.

4. Nothing in this paragraph shall be interpreted to prevent the council pursuant to its authority under KRS 15.330 from approving training schools with a curriculum requiring attendance of a number of hours that exceeds nine hundred twenty-eight (928) hours or the number of hours established in an administrative regulation set out by subparagraphs 2. and 3. of this paragraph. However, the training programs and schools for the basic training of law enforcement personnel conducted by the department pursuant to KRS 15A.070 shall not contain a curriculum that requires attendance of a number of hours for basic training that is different from nine hundred twenty-eight (928) hours or the number of hours established in an administrative regulation promulgated by the council pursuant to the provisions of KRS Chapter 13A as set out by subparagraphs 2. and 3. of this paragraph:

(e) Requires all police officers, whether originally employed before or after July 1, 1972, and all sheriffs appointed or elected before, on, or after July 15, 1998, and all deputy sheriffs and state or public police officers employed before, on, or after July 15, 1998, to successfully complete each calendar year an in- service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of ~~at least~~ forty (40) hours' duration, ***of which the number of hours shall not be changed by the council***, at a school certified or recognized by the Kentucky Law Enforcement Council. This requirement shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces. This waiver shall be retroactive for peace officers from the date of September 11, 2001;

* * * * *

Section 3. KRS 70.263 is amended to read as follows:

(1) Each person serving as a covered deputy sheriff on the effective date of an ordinance that creates a deputy sheriff merit board for the county in which he serves shall have successfully completed, within one (1) year following the effective date of that ordinance, ***a basic training course as established by Section 2 of this Act at a school certified or recognized***~~[at least six hundred forty (640) hours of training approved]~~ by the Kentucky Law Enforcement Council. Training approved by the Kentucky Law Enforcement Council received before the effective date of the ordinance may be used to satisfy all or part of this requirement.

(2) Each person appointed as a covered deputy sheriff in a county that has adopted a deputy sheriff merit board before the date of his appointment shall have successfully completed, within one (1) year following the appointment, ***a basic training course as established by Section 2 of this Act at a school certified or recognized***~~[at least six hundred forty (640) hours of training approved]~~ by the Kentucky Law Enforcement Council. Training approved by the Kentucky Law Enforcement Council received before the effective date of the ordinance may be used to satisfy all or part of this requirement.

* * * * *

Section 4. KRS 95.955 is amended to read as follows:

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(1) All police officers and auxiliary police officers originally appointed or employed by a city, urban-county, or charter county government after July 14, 1992, shall, within one (1) year of their appointment or employment, successfully complete **a basic training course as established by Section 2 of this Act at a school certified or recognized**~~[at least six hundred forty (640) hours of basic training administered or approved]~~ by the **Kentucky Law Enforcement Council**~~[Department of Criminal Justice Training]~~.

(2) All police officers and auxiliary police officers specified in subsection (1) of this section shall, upon completion of the basic training required in the same section, successfully complete forty (40) hours of annual in-service training **as established by subsection (1)(e) of Section 2 of this Act at a school certified or recognized**~~[administered or approved]~~ by the **Kentucky Law Enforcement Council**~~[Department of Criminal Justice Training]~~.

(3) All police officers and auxiliary police officers appointed or employed before July 14, 1992, shall successfully complete forty (40) hours of annual in-service training **as established by subsection (1)(e) of Section 2 of this Act at a school certified or recognized**~~[administered or approved]~~ by the **Kentucky Law Enforcement Council**~~[Department of Criminal Justice Training]~~.

(4) In the event of extenuating circumstances beyond the control of the officer such as injury, illness, or personal tragedy which prevents the officer from completing the basic or in-service training within the time specified in subsections (1) to (3) of this section, the officer shall complete the training within one hundred eighty (180) days after return to duty. Any police officer or auxiliary police officer who fails to successfully complete the basic or in-service training within the specified time period shall not be authorized thereafter to carry deadly weapons or make arrests and may be dismissed from employment as a police officer or from membership on the auxiliary police force.

Section 5. KRS 15.530 is amended to read as follows:

For the purposes of KRS 15.530 to 15.590:

* * * * *

(6) "Non-CJIS telecommunicator academy" means a training course of ~~[at least]~~ one hundred twenty (120) hours approved by the Kentucky Law Enforcement Council; and

(7) "Telecommunications academy" means a training course of ~~[at least]~~ one hundred sixty (160) hours approved by the Kentucky Law Enforcement Council.

Section 6. KRS 15.550 is amended to read as follows:

The basic course offered by the training program shall consist of ~~[not less than]~~ forty (40) hours of instruction or training and shall consist of subjects appropriate for the basic training of law enforcement telecommunicators in the technique of emergency services communications. The Kentucky Law Enforcement Council shall approve all training curriculum and instructions.

Section 7. KRS 15.560 is amended to read as follows:

(1) No person shall receive an official appointment on a permanent basis as a law

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enforcement telecommunicator unless the person has previously been awarded a certificate by the Kentucky Law Enforcement Council attesting to such person's satisfactory completion of a non-CJIS telecommunications academy. Every person who is employed after June 24, 2003, as a law enforcement telecommunicator by any law enforcement agency in this state, regardless of prior experience as a non-CJIS telecommunicator, shall forfeit his or her position as such unless, within twelve (12) months from the date of his or her employment, he or she satisfactorily completes the non-CJIS telecommunications academy and is awarded a certificate attesting thereto. The council shall waive the training requirements listed in this section for all law enforcement telecommunicators who are serving on July 15, 2006, and possess a certificate of completion of an approved law enforcement telecommunicator basic training program.

(2) All non-CJIS telecommunicators, whether originally employed before or after July 15, 2006, shall successfully complete each calendar year an in-service training course, appropriate to their job assignment and responsibility, of ~~[at least]~~ eight (8) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council.

(3) In the event of extenuating circumstances beyond the control of a non-CJIS telecommunicator that prevent completion of training within the time specified, the commissioner or the commissioner's designee may grant the non-CJIS telecommunicator an extension of time, not to exceed one hundred eighty (180) days, in which to complete the training.

(4) A non-CJIS telecommunicator who fails to complete the training within a period of twelve (12) months and any extension of time granted under this section shall be terminated by the employing agency and shall not be permitted to serve as a telecommunicator with any governmental agency in the Commonwealth for a period of one (1) year.

Section 8. KRS 15.565 is amended to read as follows:

(1) No person shall receive an official appointment on a permanent basis as a CJIS telecommunicator unless that person has previously been awarded a certificate by the Kentucky Law Enforcement Council attesting to that person's satisfactory completion of the CJIS telecommunications academy. Every person who is employed after July 15, 2006, as a CJIS telecommunicator shall forfeit his or her position as such unless, within six (6) months from the date of employment, that person satisfactorily completes the CJIS telecommunications academy and is awarded a certificate attesting thereto. The council shall waive the training requirements listed in this section and award a CJIS telecommunicator certificate for all CJIS telecommunicators who are serving on July 15, 2006, and have successfully completed the CJIS-full access course.

(2) A non-CJIS telecommunicator who gains employment as a CJIS telecommunicator shall successfully complete the CJIS-full access course within six (6) months from the date of his or her employment. A non-CJIS telecommunicator whose employing agency initiates the use of CJIS shall successfully complete the CJIS-full access course within six (6) months from the date that the agency initiates the use of CJIS.

(3) All CJIS telecommunicators, whether originally employed before or after July 15, 2006, shall successfully complete each calendar year an in-service training course, appropriate to their job assignment and responsibility, of ~~[at least]~~ eight (8) hours'

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duration, **of which the number of hours shall not be changed by the Kentucky Law Enforcement Council, at a school certified or recognized by the** [Kentucky Law Enforcement] council.

(4) All CJIS telecommunicators, whether originally employed before or after July 15, 2006, shall successfully complete eight (8) hours of CJIS in-service training every two (2) years at a school certified or recognized by the Kentucky Law Enforcement Council.

(5) Extensions of time in which to complete the training specified in this section may be granted by the commissioner of the Department of Kentucky State Police or the commissioner's designee.

(6) A CJIS telecommunicator who fails to complete the training within a period of six (6) months and any extension of time granted under this section shall be terminated by the employing agency and shall not be permitted to serve as a telecommunicator with any governmental agency in the Commonwealth for a period of one (1) year.

Section 9. KRS 15.590 is amended to read as follows:

(1) KRS 15.530 to 15.590 shall be administered by the Kentucky Law Enforcement Council, which shall promulgate administrative regulations as necessary regarding training, in-service training, and telecommunications practices.

(2) The Kentucky Law Enforcement Council may, by administrative regulations promulgated in accordance with KRS Chapter 13A, explicitly set the exact number at a different number of hours from that established in Section 5 of this Act required for completion of the:

(a) Non-CJIS telecommunicators academy; and

(b) Telecommunications academy. If the council sets an exact number of hours at a different number from that established in Section 5 of this Act in an administrative regulation as set out in this subsection, it shall not further change the number of hours without promulgating administrative regulations in accordance with the provisions of KRS Chapter 13A to set the exact number of hours required for each of the academies.

(3) Nothing in KRS 15.530 to 15.590 shall be interpreted to permit the Kentucky Law Enforcement Council to increase or decrease the eight (8) hours required to be completed by telecommunicators for in-service training as established in subsection (2) of Section 7 of this Act and subsections (3) and (4) of Section 8 of this Act.

Section 10. KRS 15A.070 is amended to read as follows:

(1) The Department of Criminal Justice Training shall establish, supervise and coordinate training programs and schools for law enforcement personnel, **subject to the limitations of paragraphs (d) and (e) of subsection (1) of Section 2 of this Act and Section 7 of this Act,** and any other justice or non-law-enforcement-related personnel as prescribed by the secretary.

(2) The Department of Criminal Justice Training shall make a continuing study of law enforcement training standards and upon request may furnish information relating to standards for recruitment, employment, promotion, organization, management, and operation of any law enforcement agency in Kentucky.

(3) The Department of Criminal Justice Training shall conduct continuing research on

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criminal law and criminal justice subjects related to law enforcement training.

(4) The Department of Criminal Justice Training may by administrative regulation provide for administrative hearings to be conducted in accordance with KRS Chapter 13B.

(5) The commissioner of the Department of Criminal Justice Training may promulgate administrative regulations in accordance with KRS Chapter 13A. ®

REMAINDER OF BILL RELATES TO FIREFIGHTERS

HOUSE CONCURRENT RESOLUTION 187

A CONCURRENT RESOLUTION urging and petitioning the United States Customs and Border Protection Agency and the Department of Homeland Security to require advance electronic data screening of all inbound shipments to the United States to facilitate identification and interception of illegal synthetic drugs and chemicals.

WHEREAS, The Commonwealth of Kentucky has experienced a significant increase in the illegal use, sale, and trafficking of dangerous and potentially fatal synthetic drugs, including synthetic cannabinoids, opioids, and cathinones; and

WHEREAS, there are more than 300 synthetic drugs imported into the United States and more than 500 distributed globally, most of them produced in China, according to the United States Department of State; and

WHEREAS, the United States Customs and Border Protection Agency has implemented advance electronic manifesting and security screening as a key tool for identifying and intercepting high-risk shipments that may include illegal or dangerous goods such as synthetic drugs; and

WHEREAS, the United States Customs and Border Protection Agency is authorized by the Trade Act of 2002 to require foreign postal services to provide advance electronic manifests and security screening data; and

WHEREAS, a major avenue for the importation of synthetic drugs is shipping small parcels through the international mail system via foreign postal services, and are the only commercial import shipments that do not currently provide advance electronic manifests and security screening data;

NOW, THEREFORE, Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The United States Customs and Border Protection Agency and the Department of Homeland Security are hereby urged and petitioned to expeditiously promulgate federal regulations requiring advance electronic

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screening data on all package shipments inbound into the United States, including shipments from foreign postal services.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit copies of this Resolution to the Honorable Jeh Johnson, Secretary of Homeland Security, Washington, D.C. 20528; R. Gil Kerlikowske, Commissioner of United States Customs and Border Protection, 1300 Pennsylvania Ave, NW; Senate Majority Leader Mitch McConnell, 317 Russell Senate Office Building, Washington, D.C. 20610; Senator Rand Paul, 167 Russell Senate Office Building, Washington D.C. 20510; Representative Andy Barr, 1432 Longworth House Office Building, Washington, D.C. 20515; Representative Thomas Massie, 314 Cannon House Office Building, Washington, D.C. 20515; Representative Brett Guthrie, 2434 Rayburn House Office Building, Washington, D.C. 20515; Representative Harold Rogers, 2406 Rayburn House Office Building, Washington, D.C. 20515; Representative John Yarmuth, 403 Cannon House Office Building, Washington, D.C. 20515; and Representative Edward Whitfield, 2184 Rayburn House Office Building, Washington, D.C. 20515.